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James Munger

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March 1955

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A PRELIMINARY STUDY OF
FARMER BANKRUPTCY EXPERIENCES IN THE
DAKOTAS 1928-1952

By

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This study was conducted with a purpose of capturing for future use the experience of the thirties while records and the memories of people concerned are still available. It was initiated under the guidance of Dr. Ernest Feder. Expansion of the case material was made possible by the receipt of additional funds from the Agricultural Research Service, United States Department of Agriculture. The cooperation of Dr. Norman Wall is gratefully acknowledged.

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CHAPTER I

INTRODUCTION

For many years a difference of opinion has existed regarding the relative effectiveness of the various methods for the relief of farmers in financial distress. Much interest has been centered around price-support programs which would prevent farmers from becoming financially distressed but little attention has been devoted to an analysis of modern farm bankruptcy legislation which would permit individual farmers to rehabilitate themselves when faced with economic ruin.

A. Financial Distress Among Farmers In North and South Dakota 1920-1953

Financial Difficulties Following World War I

World War I brought a period of prosperity for agriculture. Farm income rose sharply from 1914 to 1919, more as a result of inflation than of increased production. The high earnings of farm lands caused a major land boom which reached its peak in the early part of 1920. Real estate mortgages increased rapidly during the war years.

Thus in 1920, some farmers found themselves in a poorer economic condition than they had been in 1914. At the heart of the problem was the less favorable relationship of the high level of fixed charges, including debt obligations, to declining farm incomes. This price disadvantage led to a great expansion in mortgage foreclosures occurring during the 1921-25 period, great both in amount and in comparison with

previous periods. ^{1/}

The need for a sound credit system was very apparent to farmers and farm organization leaders during the 1920's. Farmers have a distinct need for long-term loans whereas, the customary types of commercial and industrial loans were usually for short terms and geared to a rapid turnover.

The trouble, however, was not merely due to the length of loan but also to the drop in prices which reduced farmers incomes to such an extent that they were little more likely to be able to pay after a longer period than at the time the note was due. Many farmers in the Great Plains simply had to give up their farms and start again.

Depression and Drought

In the early thirties, farmers in North and South Dakota felt the twin impact of severely depressed prices and an unprecedented drought. The number of foreclosures in these states serves to illustrate the financial plight of many farmers.

During the ten-year period of 1930-39, the total number of forced sales in North Dakota amounted to 48 per cent of all farms; the per cent for South Dakota was 67. ^{2/} At least part of this difference may have been due to more vigorous public measures in North Dakota to protect the farmer-debtor. The number of forced sales for the United States as a whole amounted to 29 per cent of all farms. ^{3/}

^{1/} Gabriel Lundy, Farm Mortgage Experience in South Dakota, Bulletin 370, Agricultural Economics Department, Agricultural Experiment Station, South Dakota State College, 1943, p. 9.

^{2/} A. R. Johnson, The Farm Real Estate Situation, Circular 780 United States Department of Agriculture, Washington, D. C., 1947, p. 6.

^{3/} Rainer Schickele and Reuben Engelking, Land Values and the Land Market in North Dakota, Bulletin 353, Agricultural Experiment Station, North Dakota Agricultural College, 1949, p. 43.

Not all these forced sales involved whole farms and some properties were foreclosed more than once; in addition, some foreclosed properties were later redeemed by the farmer. After making allowance for these factors, it may be estimated that about one-third of all farm families in North and South Dakota lost whatever equity they had in their farms through foreclosure during the ten-year period of 1930-39. 4/

The number of persons who lost their farms, however, only begins to indicate the seriousness of the resulting conditions. In most cases, loss of farm meant loss of life savings, migration and lower tenure status. Many farm families did not give up easily and attempted to pay their indebtedness by reducing their level of living, depleting their soil and allowing their equipment to deteriorate.

Individual lenders, insurance companies and other financial institutions were severely shaken by the deterioration of the financial structure. The dependence of the rural banks on farm prosperity is indicated by the fact that the volume of bank failures in North and South Dakota compared remarkably with the number of farm mortgage foreclosures.

One of the earliest steps taken by the Federal Government to relieve the financial plight of farmers was a move to reorganize and strengthen government-sponsored farm credit agencies. The Emergency Farm Mortgage Act provided for refinancing, through land bank loans, the thousands of farm mortgages that were being called by private lenders. The Farm Credit Act of 1933 set up a comprehensive system of Federally sponsored agricultural credit agencies.

4/ Ibid., p. 43-45.

The various relief programs extended into the agricultural areas in a wholly unprecedented way. Farmers for almost the first time in their history were directly concerned with relief for the farm unemployed. Whereas farmers had customarily managed with very little direct relief, hundreds of thousands of them now came to be supported at least partially, through one or another of the Federal, state or local relief agencies. This was particularly true of the "dust bowl" areas in the Plain States.

A total of over 76 million dollars was spent by the various relief agencies in South Dakota during the period 1930-1935. Included in this total were county relief expenditures of over seven million, Civil Works Administration expenditures of over six million, and direct relief by state and Federal agencies amounting to over 40 million dollars. In addition, the Civilian Conservation Corps provided nearly 14 million dollars in salaries to persons in need of employment. 5/

The large scale farm foreclosures and bankruptcies in the 1930's were accompanied by a great deal of social unrest and difficulties of law enforcement. Emotions were at a high pitch and public opinion was strongly opposed to the actions of creditors. In 1933, for example, a large group of farmers organized a march on Aberdeen, South Dakota, to prevent the local sheriff from going through with a public foreclosure sale. Incidents such as this were not uncommon during the early years of the depression.

It was during this critical period that farmer-debtor relief leg-

5/ W. F. Kumlien, A Graphic Summary of the Relief Situation in South Dakota, 1930-1935, Bulletin 310, Agricultural Experiment Station, South Dakota State College, 1937, p. 56.

islation was first proposed. In March 1933, Federal legislation was enacted which provided a means for debt composition when the farmer became unable, even temporarily, to meet payments on his obligations. The new modifications of the law were designed to protect the interests of both the farmer and the creditors by anticipating the need for action before irreparable damage occurred.

The 1937 South Dakota Legislature passed a bill (Chapter 207 of the Session Laws), authorizing the Circuit Court to extend the period of redemption after foreclosure. The length of the redemption period was left to the discretion of the court except that the maximum length of extensions was limited to a March 1, 1939, termination date.

In order to justify this foreclosure moratorium legislation, the South Dakota Legislature made the following observations in regard to economic and social conditions during the depression:

Whereas, the several years just passed, dominated as they have been by poor crops and exceedingly low prices for farm products, have been followed in 1936 by a statewide and destructive drought causing a complete failure of all crops with the result that owners of real estate, particularly farmers, are without income or credit, effecting seriously the general business condition of the state....and it is estimated that approximately one-third of the whole population of the state have been forced to seek public relief, a large number of foreclose and execution sales are now in progress throughout the State with the result that many owners of real estate and their families will be thrown out of their homes and reduced to the condition and status of temporary tenancy and in addition it appears to be the fixed policy of large mortgage holders to refuse to rent a foreclosed farm to the former owner thereof, thereby unjustly discriminating against the debtor who has been so unfortunate as to lose his home through foreclosure or execution sale proceedings.....6/

An extreme feeling of hopelessness prevailed among farmers during the 1930's. Relatively few farmers ever took advantage of the emergency

6/ Session Laws of South Dakota, State Publishing Company, Pierre, South Dakota, 1937, p. 274.

laws designed to help keep them on their farms. Many farmers in North and South Dakota simply abandoned their farms to their creditors and moved to California and the Pacific Northwest.

An example of the hopeless condition of many farmers may be found in the following testimony of a farmer applying for debt relief in North Dakota. He was asked this question: "Have you got enough equipment and help so that you could farm all of the plow land on your place?" Answer: "Well, no, I haven't. I farmed until I am just about no good myself and machinery and horses and everything is shot." As to his building he said: "The sun and the wind are just beating them up so we can look through them any place." He testified that his horses were not capable of working the farm, that he had no seed or tractor but that his boys would put in a crop if it rained. He further testified that he was going to quit and drive away because "I have lived in sand storms for years. Lots of days we had to take the family and drive away." This farmer had worked on the Works Project Administration for several months and had received some local relief. 7/

A gradual economic recovery took place during the latter 1930's. However, generally unfavorable economic conditions prevailed among farmers in the Dakotas throughout the entire decade. The number of farm foreclosures was still very high in 1940 and the number of farmer bankruptcies in North Dakota did not reach its peak until 1942.

War and Prosperity

During most of the 1940's farmers in North and South Dakota experienced a period of prosperity. Prices and crop yields were generally

7/ This testimony was taken from bankruptcy case 355, Federal District Court, Fargo, North Dakota, 1938.

better than in earlier decades. Living standards were raised substantially, mortgages were lifted and some liquid savings were accumulated.

Support programs for essential commodities have introduced an element of certainty and stability into the farm price situation. Mortgages are, in many instances, on a long-term basis with relatively low rates of interest. Several government agencies now provide for some agricultural credit or some form of financial support in case of distress. These are factors which seemingly differentiate the 1950's from the 1920's and 1930's and tend to make a recurrence of an agricultural depression less likely.

However, it should not be assumed that farmers are now immune to widespread economic distress either on a national or regional scale. Modern methods of farming may make farmers more vulnerable to changes in yields, prices and incomes. Cash expenses and capital outlays are relatively higher than in the past. A drop in farm prices or incomes could result in a rapid rise in indebtedness and make it very difficult for the farmer to borrow adequate funds.

The effectiveness of the present price-support program is limited to certain crops and livestock. A period of unfavorable weather conditions, such as the drought of the 1930's could render the entire price-support program ineffective.

In recent years, whenever general economic conditions have deteriorated--such as in 1949 and again in 1953--agriculture was affected instantly and strongly. It may be expected that in the future, agriculture will remain as sensitive and vulnerable to adverse economic fluctuations as in the past.

B. Objectives and Need for the Study

The objectives of this study were (1) to analyze the operation of general bankruptcy procedure as used by farmers; (2) to appraise the effectiveness of section 75 of the United States Bankruptcy Act as a relief measure and of the Frazier-Lemke Act in particular; and (3) to evaluate the bankruptcy experience of farmers in North and South Dakota from 1928-1953, in regard to the development of effective farmer-debtor relief legislation.

It is generally agreed that farmers are very vulnerable to price, income, and weather fluctuations. Therefore, it has been contended that, in the national interest, farmers need and deserve legislative assistance to protect them from financial distress and the subsequent loss of their farms and homes.

Section 75 of the Bankruptcy Laws of the United States, and particularly subsection (s), the Frazier-Lemke Act, were passed by Congress in an effort to afford debt relief to insolvent farmers which would permit them to retain ownership of their farms. This act resulted in a scaledown of the original debt at the initiative of the borrower and under supervision of the courts.

The legislation encountered the hostility of the lower courts even after its constitutionality was upheld by the Supreme Court. It was generally considered, even by its supporters, to have been poorly drafted.

The numbers of farmer bankruptcies in North and South Dakota 1928-1953 were relatively small when compared to the number of foreclosures during the same period. Farmers were apparently not informed, unable,

or unwilling to seek relief under existing bankruptcy laws. Further inquiry into the reasons for this situation would seem to be justified in view of the recent efforts in the United States Congress to make farmer-debtor relief legislation a permanent part of our bankruptcy laws.

C. Procedure

In order to gain insight into these problems, the following approach was used: (1) Preliminary information was obtained from court dockets of farmer bankruptcies; (2) This information was tabulated and sample cases selected for more detailed analysis; (3) From this sample, a small number of cases was micro-filmed to permit a more complete analysis of their apparent relevance to the problems involved in the financial rehabilitation of distressed farmers.

Gathering Preliminary Data

Preliminary information on farmer bankruptcy proceedings was obtained from the dockets of the United States District Courts at Fargo, North Dakota, and Sioux Falls, South Dakota. These dockets record each case in a summary manner but contain only information which involves the activity of the court itself.

A mimeographed form was prepared and used in each state to record the name and residence of debtor, date of filing petition, date of discharge or dismissal, and type of procedure (Appendix II). These forms were filled out for a total of 2,733 case dockets in North Dakota and 792 case dockets in South Dakota. These dockets include all farmer bankruptcy cases occurring in North and South Dakota during the years 1928-1953.

Selecting the Sample Cases

On the basis of county tabulations of the above data, four counties in South Dakota were selected for detailed study. Geographical distribution and total number of section 75 cases in each county from 1933-1949 were used as the criteria for selection, i.e., the counties selected had a large number of section 75 cases and were typical of the farming area in which they were located. The four counties selected were Brown, Moody, Perkins, and Yankton with 48, 32, 5, and 20 section 75 cases respectively.

A document schedule was filled out for each section 75 case in the above counties.

This schedule was set up to show the financial position of the farmer-debtor before and during the bankruptcy procedure. The following information was obtained wherever possible:

- (1) Type of farming: size of farm, personal property and livestock.
- (2) Financial position of debtor: names of creditors, amounts of debts, value of securities, and assets (as given by the farmer in his petition.)
- (3) Appraised value of assets: obtained whenever possible (some cases did not have appraiser's report.)
- (4) Outcome of case: If dismissed, reason for dismissal; if discharged, general statement of composition.

Case Study

Detailed information as to the substance of each bankruptcy case is contained in separate folders which are kept by the United States District Clerk of Courts. These folders are generally quite voluminous

and require a lengthy examination. In order to facilitate the analysis of these cases, it was decided to place the contents of these folders on micro-film.

These micro-filmed cases were not selected at random but were selected so as to represent various periods of time, during the period 1933-1949, since it was assumed that the ~~procedure and attitudes of the courts~~ changed over the years.

The 25 cases, 10 discharged and 15 dismissed cases selected for micro-filming from the four counties are as follows:

County	<u>Number of s.75 Cases</u>		<u>Number in Sample</u>	
	<u>Discharged</u>	<u>Dismissed</u>	<u>Discharged</u>	<u>Dismissed</u>
Brown	9	39	6	4
Moody	2	30	1	4
Perkins	0	5	0	5
Yankton	<u>5</u>	<u>15</u>	<u>3</u>	<u>2</u>
Total	16	89	10	15

Analyzing the Data

The preliminary data for North and South Dakota was tabulated by year, type of procedure, county, and economic area. An attempt was made to analyze the overall record of farm bankruptcies and farm foreclosures.

The individual section 75 cases in the case study were thoroughly examined in terms of (1) the causes of financial distress, (2) economic and social benefits to the debtor, (3) financial losses incurred by the creditors, and (4) general effectiveness of the law.

The case study method was decided upon due to the extremely complicated nature of bankruptcy cases in general and section 75 cases in par-

ticular. It was felt that an intensive study of a small number of cases would reveal more information than a more general study of all cases.

CHAPTER II

BANKRUPTCY LAWS AND PROCEDURE

A. History of Bankruptcy Legislation

"Bankruptcy as it is known today is essentially a device to collect the assets of a debtor for the purpose of selling them and distributing the proceeds equitably among creditors and, where the conduct of the debtor permits, to make it possible for him to secure release from the unpaid balance of his obligations." 8/

Originally, however, bankruptcy legislation had much narrower objectives. The first English enactment relating to bankruptcy was passed in 1542. This act and all statutes during the next 150 years were in keeping with the English policy of treating insolvents as criminals. The debtor was not entitled to a discharge nor was he allowed to be adjudged a bankrupt voluntarily, i.e., on his own initiative.

Two radical changes were introduced during the early eighteenth century which changed bankruptcy from a quasi-criminal proceeding into a strictly liquidating device. First; a distinction was made between fraudulent and honest debtors. Fraudulent debtors were treated as felons, but honest debtors, with the consent of the creditors, were entitled to a discharge. Second; creditors were allowed to participate in the administration of bankruptcies through election of a trustee.

The next significant change in bankruptcy legislation came near the beginning of the nineteenth century when voluntary bankruptcies

8/ Encyclopaedia of the Sozial Sciences (Edwin R. A. Seligman, editor) Volume II, The Macmillan Company, New York, 1930, p. 449.

were permitted. From that time on, bankruptcy was to be equally at the service of the debtor and the creditor.

Early United States Bankruptcy Legislation

The first bankruptcy law in the United States was passed in 1800. It contained a provision for involuntary bankruptcy only and continued in force for about three years until its repeal in 1803.

The next statute was enacted in 1841. This law contained both a voluntary and an involuntary feature, but it was repealed after only two years. 9/

In 1867 another act was passed. This law was repealed in 1878. 10/

Each of these Federal statutes was enacted soon after a period of business depression. The first followed the business disturbance of 1797, the second the panics of 1837 and 1839, and the third was a result of the chaotic economic conditions following the Civil War. All of these acts were repealed either in a period of prosperity or at a time when general business conditions had improved. The significance of this relationship becomes more evident when the purpose of bankruptcy as a liquidating and rehabilitating device is recalled. From the point of view of both creditors and debtors, the need for bankruptcy legislation would be most acute in periods of depression. 11/

The National Bankruptcy Act of 1898

Since 1898 the emergency character of bankruptcy legislation has

9/ David L. Wickens, Farmer Bankruptcies, 1898-1935, Circular 414 United States Department of Agriculture, Washington, D. C., 1936, p. 2.

10/ For an interesting discussion of the objectives and procedures of early bankruptcy legislation, see, Congressional Record, Vol. XXXI, Part II, 55th Congress, 2nd Session, Government Printing Office, 1898, Washington, D. C. pp. 209-212.

11/ Encyclopaedia of the Social Sciences, op. cit., p. 450.

disappeared. A Federal bankruptcy act passed on July 1, 1898, with certain subsequent amendments, has governed the legal procedure involved in farm bankruptcy cases since that time. This act provided that farmers and wage earners could not be placed in bankruptcy against their will, but this provision did not apply to persons in other occupations.

The National Bankruptcy Act has been frequently amended since 1898. Most of the changes have been designed primarily to add certain features that would strengthen the law and make it equitable for both creditors and debtors. A large number of changes occurred during the 1930's in an effort to facilitate compositions and extensions of debts and to secure financial rehabilitation for various classes of debtors. 12/
Agricultural Compositions and Extensions

In 1933 section 75 entitled "Agricultural Compositions and Extensions" was added to the Bankruptcy Act. This section as originally enacted contained sections a-r, and was designed to improve the financial position of farmers and to enable them to keep possession of their farms. "Alone, however, this measure proved inadequate for the task, and in 1934 Congress, departing from usual bankruptcy concepts, enacted sub-section (s), commonly known as the Moratorium Provision or the Frazier-Lemke Act." 13/

The Frazier-Lemke Act was declared unconstitutional on May 27, 1935, in Louisville Joint Stock Land Bank v. Radford, 14/ and a new subsection

12/ For a detailed summary of amendments to the National Bankruptcy Act, see, Bankruptcy Laws of the United States, Government Printing Office, Washington, D. C., 1937.

13/ Collier on Bankruptcy, (James W. Moore, editor), 14th edition, Vol. V, Matthew Bender and Company, Albany, 1943, p. 120.

14/ 295 U. S. 555, 28 Am. B.R. (N.S.) 397, 55 S.Ct. 854, 79 L. Ed. 1593, 97 A.L.R. 1106.

was enacted August 28, 1935. This provision was held constitutional in 1937 in Wright v. Vinton Branch Mountain Trust Bank. ^{15/}

By its original terms, section 75 was to be effective for five years from the date of its enactment. However, the life of this provision was extended several times. ^{16/}

Section 75 was allowed to expire in 1949. Therefore, at the present time, there is no legislation which applies to farmers specifically. Farmers may however make use of Chapter 12 of the United States Bankruptcy Laws on "Real Property Arrangements by Persons Other Than Corporations." ^{17/}

B. Proposed Legislation

Congress has lately considered several bills designed to give debt relief to individual farmers when in financial distress. These bills are all in the form of a new chapter to the United States Bankruptcy Laws which would replace the temporary and emergency provisions of section 75.

The senate of the 81st Congress passed a debt adjustment bill in 1951 known as s.938 but this bill failed to pass in the House of Representatives.

The Senate of the 82nd and 83rd Congress passed a bill known as "s.25, In the Nature of a Substitute" which provides essentially for a

^{15/} 300 U.S. 440, 33 Am. B.R. (N.S.) 353, 57 S. Ct. 556, 81 L. Ed. 736, 112 A.L.R. 1455.

^{16/} The acts of March 4, 1938, March 4, 1940, March 11, 1944, June 3, 1946, and April 21, 1948 extended the life of section 75 for periods of 2, 4, 2, 2, and 1 year respectively.

^{17/} Collier on Bankruptcy, op, cit., p. 121, and 1953 Cumulative Supplement, p. 6.

Federal judicial moratorium. The House failed to consider this issue. 18/

In 1953-1954, three bills were pending before the House of the 83rd Congress. These bills: h.447, h.1068, and h.3584, were all very similar to bills previously passed by the Senate. The House, however, failed to act upon any of these bills during either the 83rd or the 84th Congress.

C. Regular Farm Bankruptcy Procedure

Who May Become a Bankrupt

"Any sane adult who owes debts may become a voluntary bankrupt." 19/
As pointed out earlier, farmers must go through voluntary bankruptcy since the National Bankruptcy Act specifically prohibits farmers from being placed in bankruptcy against their will.

Debts Which Cannot Be Discharged

The prime purpose of voluntary bankruptcy is ordinarily to secure a discharge of the bankrupts' debts. A discharge is the official declaration, by the court, that the debtor is being relieved of the responsibility for his provable debts. Accordingly, before going further it should be noted that debts of the following types cannot be discharged in bankruptcy: (1) taxes; (2) liabilities for obtaining money or property under false pretenses; (3) unscheduled debts; (4) debts created by the bankrupts' fraud or embezzlement while acting in a fiduciary capacity;

18/ Congressional Record, Vol. XCVIII, Part II, 82nd Congress 2nd Session, Government Printing Office, Washington, D. C., 1952, pp. 3512-3515 for Senate discussion of this bill.

19/ The Collier Bankruptcy Manual, (Francis Kelliher, editor), Matthew Bender and Company, Albany, 1948, p. 2.

(5) debts for wages earned within three months before bankruptcy; and
 (6) liability for money received from an employee as security for the faithful performance of his duties. Furthermore, no debt is dischargeable unless it is provable by the creditor in the bankruptcy proceedings. 20/

Procedure Under Regular Bankruptcy

Briefly, farm bankruptcy procedure is as follows. Any farmer who is unable to meet his obligations may file a petition in a Federal district court, listing his assets and his liabilities. If the court decides that the case warrants action, it adjudges the debtor a bankrupt and refers the case to a referee who is appointed by the court. The referee notifies the creditors of a hearing at which they must prove their claims and the bankrupt must stand examination, if desired. The creditors then appoint a trustee, or upon their failure to do so, the court appoints such an officer who, after setting aside the exemptions of the bankrupt allowed by state law, accounts for and remits all income received by him either from earnings, collection and/or sale of property belonging to the estate. 21/

The referee may declare a dividend when there are sufficient funds in the estate over and above the amount required to pay in full the secured claims of those that have priority. The following claims have priority: (1) all taxes legally due; (2) the actual cost of preserving the estate; (3) the cost of administering the case which the court may allow; (4) wages due workmen, servants, etc., which have been earned three months prior the bankruptcy proceedings, not to exceed \$600 for

20/ Reference should be made to Chapter XVII of the United States Bankruptcy Law for a full discussion of the effect of discharge in bankruptcy and of the debts which cannot be discharged.

21/ The Collier Bankruptcy Manual, op, cit., pp. 1-7.

each person; and (5) debts owed to any person who by state or Federal laws is entitled to priority. 22/

Discharge of Debtor

After the bankrupt has been examined at the first meeting of his creditors, the referee fixes a time within which objections to his discharge must be filed. At least thirty days prior to the date fixed, notice thereof must be given to all creditors. If no objections are filed within the time fixed, the discharge will be granted as a matter of course. However, if objections are filed, a hearing must be held. 23/

If a discharge is granted, section 17 of the Bankruptcy Act provides that it releases the bankrupt with the exceptions noted above, from all of his provable debts. Ordinarily, claims arising after the date of filing the petition in bankruptcy are not provable, and therefore are not affected by the bankrupt's discharge.

Costs of Procedure

When the petition is filed, the debtor must pay to the clerk of the United States District Court fees amounting to \$45. These consist of \$32 for the referee's salary and expense funds; five dollars for the trustee; and eight dollars for the clerk. If the petitioner does not have and cannot obtain enough money to pay filing fees, General Order 35 24/ provides that the petition may be accepted if accompanied by a statement of the bankrupt showing that it will be necessary for him to

22/ Ibid., pp. 8-12.

23/ See Chapter XIV of the United States Bankruptcy Act.

24/ The General Orders in Bankruptcy were adopted by the Supreme Court of the United States under the power conferred by section 30 of the Bankruptcy Act and have the full force of law except as they conflict with that act.

pay the fees on installments. In such a case, however, the proceedings leading to discharge may not be instituted until the filing fees have been paid in full. In addition to the \$45 filing fees, the petitioner must pay the fees of an attorney, if such a person is employed by him. ^{25/}

D. Procedure Under Section 75

Who May File a Petition Under Section 75

Section 75 declared that "a petition may be filed by any farmer, stating that he is insolvent or unable to meet his debts as they mature... ." Thus a farmer who was unable to meet his debt obligations even temporarily could file under section 75.

Much legal controversy centered on the question: Who is a "farmer" under the provisions of the law. As originally enacted in 1933, subsection r of section 75 defined a "farmer" as follows:

"For the purpose of this section and section 74, the term 'farmer' means any individual who is personally bona fide engaged primarily in farming operations or the principal part of whose income is derived from farming operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such farming operations occur."

The amendment of May 15, 1935, changed the wording of the definition and added certain phrases so that "farmer" was defined in the following manner:

"For the purposes of this section, the term 'farmer' includes not only an individual who is primarily bona fide personally engaged in producing products of the soil but also any individual who is primarily bona fide personally engaged in dairy farming, the production of poultry or livestock, or the produc-

^{25/} The General Orders were amended in 1947. Prior to this time, the only cost to the debtor was a filing fee of \$30 which was waived in the case of a destitute petitioner.

tion of poultry products or livestock products in their unmanufactured state, or the principle part of whose income is derived from any one or more of the foregoing operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such operations occur." 26/

"It will readily be seen that this definition considerably broadened the scope of the term 'farmer' as it had been previously used." 27/ Thus persons engaged in cattle and sheep ranching, poultry raising, and dairy farming were brought under the scope of section 75. It is also apparent that farm tenants were included in this definition.

Procedure Under Subsections (a-r)

Proceedings under section 75 were instituted by the debtor who filed a petition in a Federal district court. After the petition had been filed, the judge either approved it as properly filed under the section or dismissed it for lack of jurisdiction.

Proceedings were held before a conciliation commissioner who was appointed by the court. Conciliation commissioners were appointed for counties having a population of 500 or more farmers. Counties with a smaller farm population than this were included with one or more adjacent counties. The filing of a petition subjected all the property of the debtor to the jurisdiction of the court. A preliminary inventory was submitted by the farmer and a final inventory was prepared under the supervision of the court. 28/

The first meeting of the creditors was called by the conciliation commissioner and notice was given to all creditors. The farmer was examined at this meeting and the creditors could appoint a committee to

26/ Underscoring used to emphasize additions and verbal changes.

27/ Collier on Bankruptcy, op. cit., p. 146.

28/ Ibid. pp. 130-133.

submit a supplementary inventory. A consent of a majority in number and amount of the creditors was necessary to the confirmation of a composition or extension proposal under subsections a-r of section 75.

The court confirmed such a proposal if satisfied that:

"(1) it includes an equitable and feasible method of liquidation for secured creditors and of financial rehabilitation for the farmer; (2) it is for the best interests of all creditors; and (3) the offer and its acceptance are in good faith, and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden." 29/

An extension or composition could not reduce the amount of or impair a lien below the fair and reasonable market value of the property. The future rate of interest on all debts could, however, be reduced.

If the agreement reached was a final settlement of the debts, the farmer was required to deposit in a place designated by the court, the necessary funds agreed upon to pay the creditors. 30/

Procedure Under Subsection (s).

A debtor who failed to obtain majority acceptance for a composition or extension, or who felt aggrieved by the settlement could then proceed under section 75 (s), be adjudged a bankrupt, have his property appraised, retain possession of this property, and have all judicial proceedings stayed for a three year period, during which time he paid a reasonable rental based on the appraised value of the property and determined by the court. At the end of the moratorium period the debtor could pay the appraised value and thus redeem the property. If the debtor failed to redeem within a reasonable time and upon written request of any secured creditor, the court could order the property sold at public auction.

29/ See section 75, subsection i.

30/ Collier on Bankruptcy, op. cit., p. 132.

In such a case the farmer had 90 days within which to redeem any property sold at such sale. 31/

Cost of Procedure

The farmer was required to pay a fee of \$10 when the petition was filed. This covered all costs to the petitioner including legal services of the conciliation commissioner. Additional costs of procedure were paid out of the United States Treasury. 32/

E. Situation of Farmers After Foreclosure or Bankruptcy

It was noted that the number of foreclosures in South Dakota exceeded by far the number of farm bankruptcies. It is therefore useful to explain the major differences between these two types of procedure and the resulting effect upon the farmer-debtor. A comparison may be appropriate since it can be assumed that both foreclosures and bankruptcies apply only to farmers who are insolvent.

Farm foreclosure proceedings are always instigated by the creditors, and always end with the owners losing their farms unless they make use of their right of redemption. This use necessitates the procurement of funds from some new source. A foreclosure affects only a specific secured debt but does not liberate the farmer from other debts, nor does it relieve him of the amount of his debt which the foreclosure sale does not cover. If the foreclosure sale does not bring sufficient funds to pay the secured debt, the creditor can recover the loss from the farmer by securing a deficiency judgment or by other legal means.

During the depression of the 1930's, many states, including South

31/ Ibid. p. 133. A reappraisal may be made at the time of redemption.
32/ See section 75, subsection b.

Dakota, passed legislation to suspend, temporarily at least, the harsh effects of foreclosure sales. State moratorium legislation attempted to prevent creditors from instigating foreclosure proceedings by lengthening the period during which farmers could redeem their farms after the foreclosure sale. It was designed to give farmers an additional chance to stay on their farms and to find other sources of credit to redeem their property. However, many such laws were only of temporary nature. They did not interrupt, in South Dakota at least, the number of new foreclosures each year during the depression. 33/

Regular bankruptcy procedure, as well as a procedure under section 75 can only be started by option and at the initiative of the farmer. In regular bankruptcy procedure, all of the farmer's debts, except non-dischargeable debts, are nullified after discharge. The farmer, however, loses his farm. Under section 75, the farmer does not come out of the procedure debt-free. If he is successful in making a composition or extension agreement, his debt structure will be modified as to amount or repayment conditions, or both. If he makes use of subsection (s) procedure, he is relieved of his old debts only if he can refinance himself, i.e., enter into new debt obligations. In both cases, he remains owner of the farm but his debt structure is adjusted more in accordance with current economic conditions.

It should be noted that section 75 provided that the filing of a petition subjected the farmer and all his property to the exclusive jurisdiction of the court. The property of the farmer included his right

33/ Foreclosure statistics may not reveal to what extent foreclosures were actually carried through or whether all of these farmers actually lost their farms. This problem will be investigated at a later time.

of redemption or equity of redemption where the period of redemption had not expired. A farmer could thus successfully file a petition under section 75 even after a foreclosure sale had been held. No proceedings for foreclosure or other debt proceedings could be instigated until the outcome of the procedure under section 75 had been determined. Thus section 75 attempted to achieve some of the same objectives as the emergency state moratorium laws.

CHAPTER III

FARM BANKRUPTCIES IN NORTH AND SOUTH DAKOTA 1928-1952

This chapter will present the overall record of farm bankruptcies in North and South Dakota in comparison with non-farm bankruptcies by types of procedure, farming areas, and in comparison with farm foreclosures. A wide variety of climatic and economic conditions were present during the 25 years included in this study.

A. Farm Bankruptcies in North Dakota

Farm Cases in Relation to all Bankruptcy Cases

During the 25 year period, 1928-1952, farm bankruptcies constituted over three-fourths (76 per cent) of all bankruptcy cases in North Dakota. The number of farm and non-farm bankruptcy cases appeared to correspond quite closely until section 75 came into use in 1934. After this date, the number of farm cases was particularly high in proportion to all cases with the exception of 1939. (Table I, Figure 1) There have been only two (regular) farm bankruptcies in North Dakota since 1946.

Farm Cases by Type of Procedure

Section 75 cases accounted for 80 per cent of all farmer bankruptcies in North Dakota from 1928 to 1949. The number of regular farm bankruptcies was high during the 1920's, but declined rapidly after 1928. The high number of farmer bankruptcies after 1933 was due almost entirely to the use of section 75 in North Dakota. (Table II, Figure 2)

Table I Relation of Farmer Bankruptcies to Total
Bankruptcies in North Dakota, 1928-1952

Year	Total Number of Bankruptcies	Farmer Bankruptcies		Total Non-farmer Bankruptcies
		Number	Per cent of All	
1928	309	190	61	119
1929	254	128	50	126
1930	194	84	43	110
1931	165	65	39	100
1932	119	47	39	72
1933	78	32	41	46
1934	122	98	80	24
1935	157	128	82	29
1936	144	85	59	59
1937	605	570	94	35
1938	327	296	91	31
1939	53	22	42	31
1940	191	154	81	37
1941	514	473	92	41
1942	648	684	95	36
1943	241	227	94	14
1944	40	33	83	7
1945	15	8	53	7
1946	17	5	29	12
1947	11	--	--	11
1948	20	--	--	20
1949	11	1	9	10
1950	33	1	3	32
1951	17	--	--	17
1952	11	--	--	11
Total	4,332	3,295	76	1,037

Figure 1. Bankruptcies in North Dakota by Year,
1928-1952

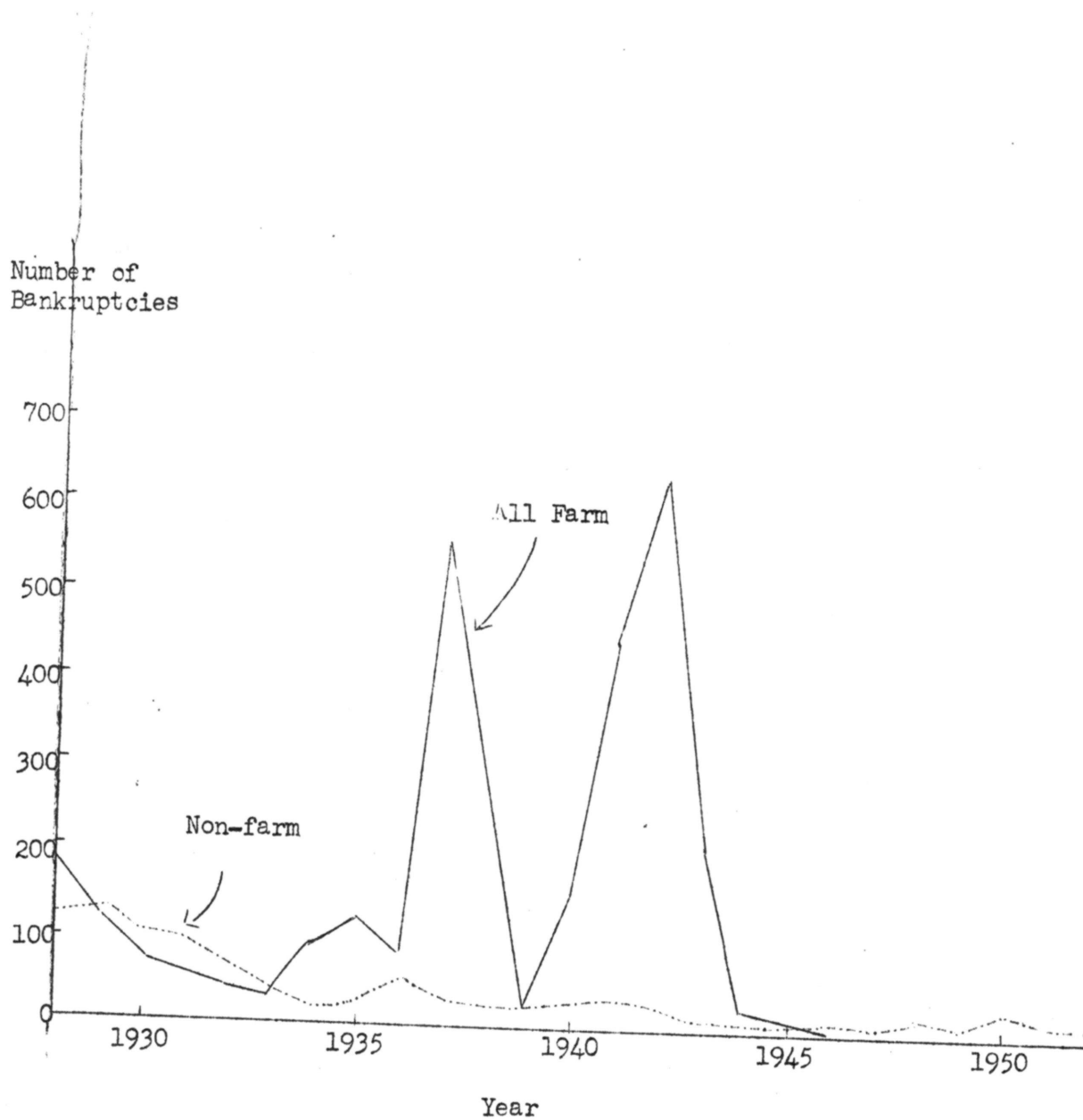
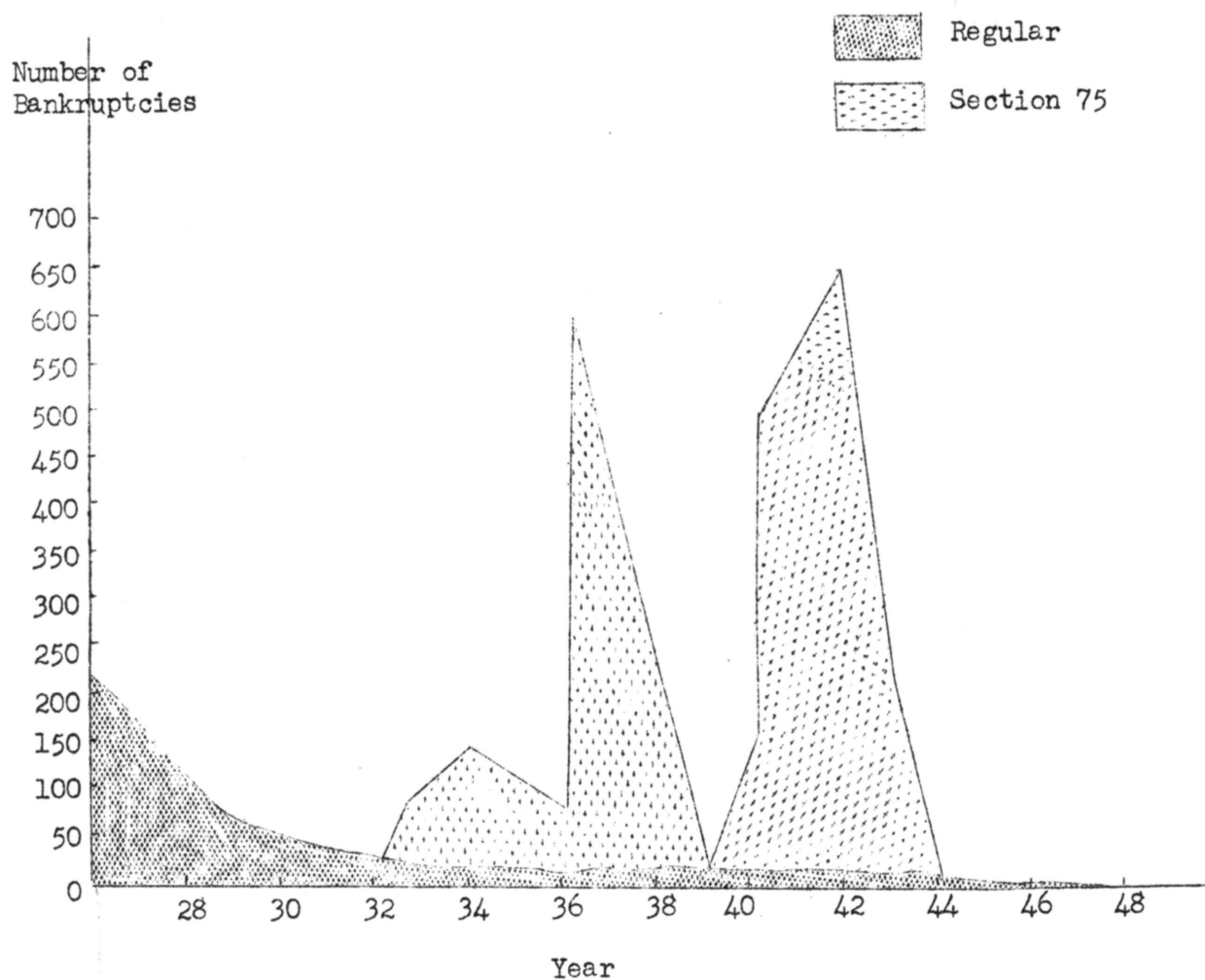


Table II Relation of Section 75 Cases to Total Farmers
Bankruptcies in North Dakota, 1928-1952

Year	Farmer Bankruptcies		Section 75 Cases as Per cent of Total Farmer Bankruptcies
	Regular	Section 75	
1928	190	--	--
1929	128	--	--
1930	84	--	--
1931	65	--	--
1932	47	--	--
1933	32	--	--
1934	25	73	74
1935	12	116	91
1936	11	74	87
1937	5	565	99
1938	10	286	97
1939	5	17	77
1940	11	143	93
1941	4	469	99
1942	3	645	99
1943	4	223	99
1944	1	32	97
1945	4	4	50
1946	1	4	80
1947	--	--	--
1948	--	--	--
1949	1	--	--
1950	1	--	--
1951	--	--	--
1952	--	--	--
Total	644	2,651	

Figure 2. Farmer Bankruptcies in North Dakota by
Year and Type of Procedure, 1928-1953



Farm Cases by Type of Farming Area

Farmer bankruptcies were distributed rather widely throughout North Dakota counties. The largest number of farm cases, both regular and section 75, occurred in the western half of the state. (Table III, Figure 3)

Table III Number of Regular and Section 75 Farmer Bankruptcies in North Dakota by Type of Farming Area, 1928-1953

Type of Farming Area	Number of Farmer Bankruptcies		
	Regular	Section 75	Total
1	78	564	642
2a	76	566	642
2b	58	418	476
3a	141	437	578
3b	116	409	525
3c	71	165	236
4	108	92	200

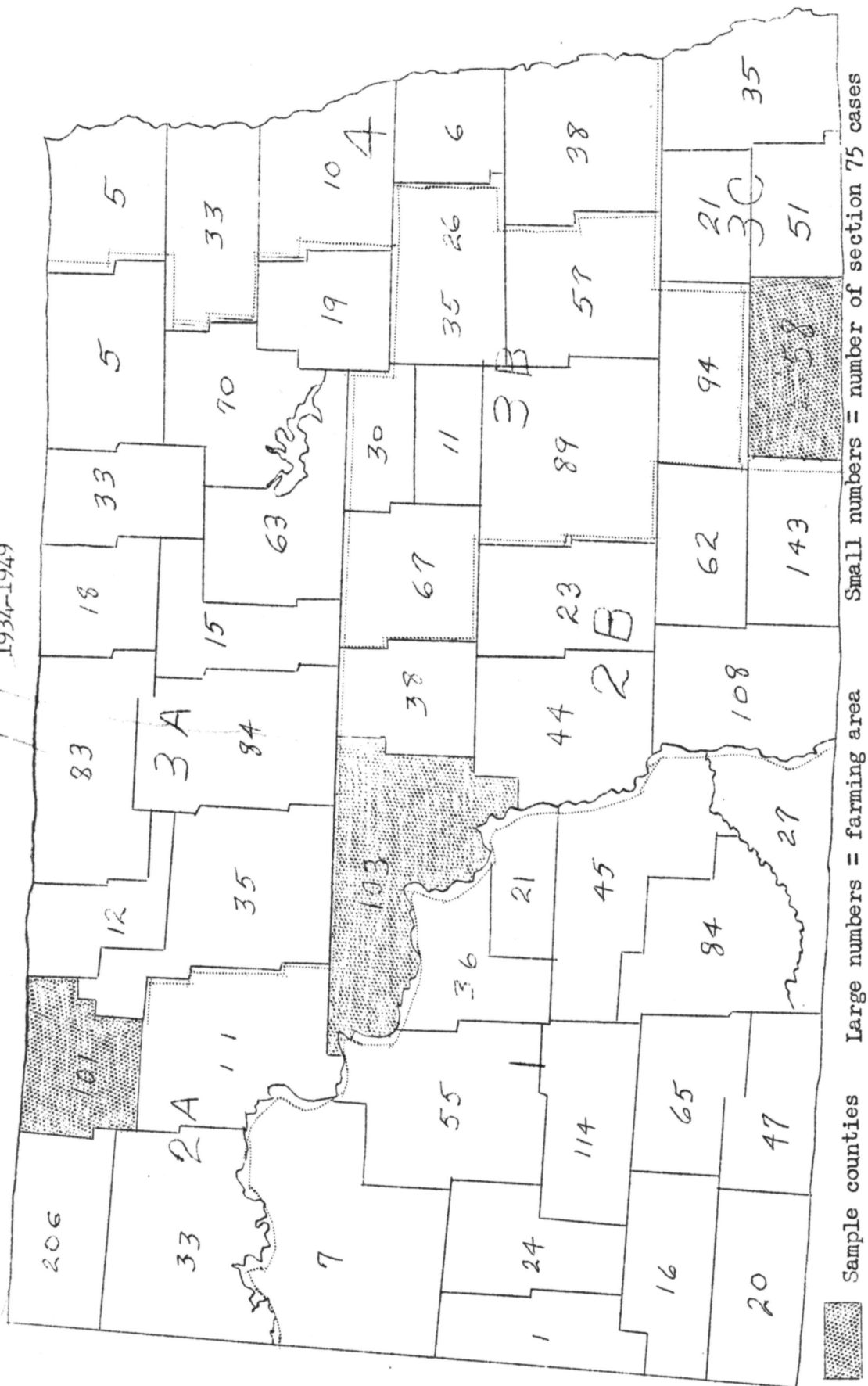
A comparison may be made between North Dakota and South Dakota in regard to the distribution of farmer bankruptcies. In South Dakota most of the farm cases occurred in the relatively low risk areas in the southeastern part of the state. Thus, apparently, the distribution of bankruptcies in North Dakota corresponds more closely to the amount of risk involved in farming.

B. Farm Bankruptcies in South Dakota

Farm Cases in Relation to all Bankruptcy Cases

Over the 25 year period, farm bankruptcy cases were nearly one-half (46 per cent) of all bankruptcy cases in the state. The number of farm cases was particularly high in proportion to all cases in those years when farmers used section 75 liberally. With the exception of a

Figure 3. Number of Section 75 Cases in North Dakota,
1934-1949



few years, the number of farm and non-farm bankruptcy cases appears to rise and fall in a roughly similar pattern. (Table IV, Figure 4)

Table IV Relation of Farmer Bankruptcies to
Total Bankruptcies in South Dakota, 1928-1952

Year	Total Number of Bankruptcies	<u>Farmer Bankruptcies</u>		Total Non-farmer Bankruptcies
		Number	Per cent of All	
1928	199	102	51	97
1929	181	73	40	108
1930	157	66	42	91
1931	144	55	38	89
1932	135	58	43	77
1933	115	54	47	61
1934	150	112	75	38
1935	151	108	72	43
1936	54	22	41	32
1937	59	27	46	32
1938	86	49	57	37
1939	52	18	35	34
1940	28	11	39	19
1941	36	13	36	23
1942	27	10	37	17
1943	16	6	38	10
1944	8	4	11	31
1945	9	3	33	6
1946	2	0	0	2
1947	5	1	20	4
1948	12	0	0	12
1949	15	0	0	15
1950	21	0	0	21
1951	27	0	0	27
1952	18	0	0	18
Total	1,734	792	46	942

Farm Cases by Type of Procedure

The number of regular farmer bankruptcy cases was high in the 1920's but declined after 1928. (Table V, Figure 5) As a result of a large number of section 75 cases, the total number of farm-bankruptcy cases rose rapidly in 1934 and 1935. In these two years, the number of section 75 cases was the highest in the state. In the following years, it

Figure 4. Bankruptcies in South Dakota by Year,
1928-1952



declined except for 1938. It appears that after passage of the act farmers resorted to section 75 in fairly large numbers to retain ownership of their farms.

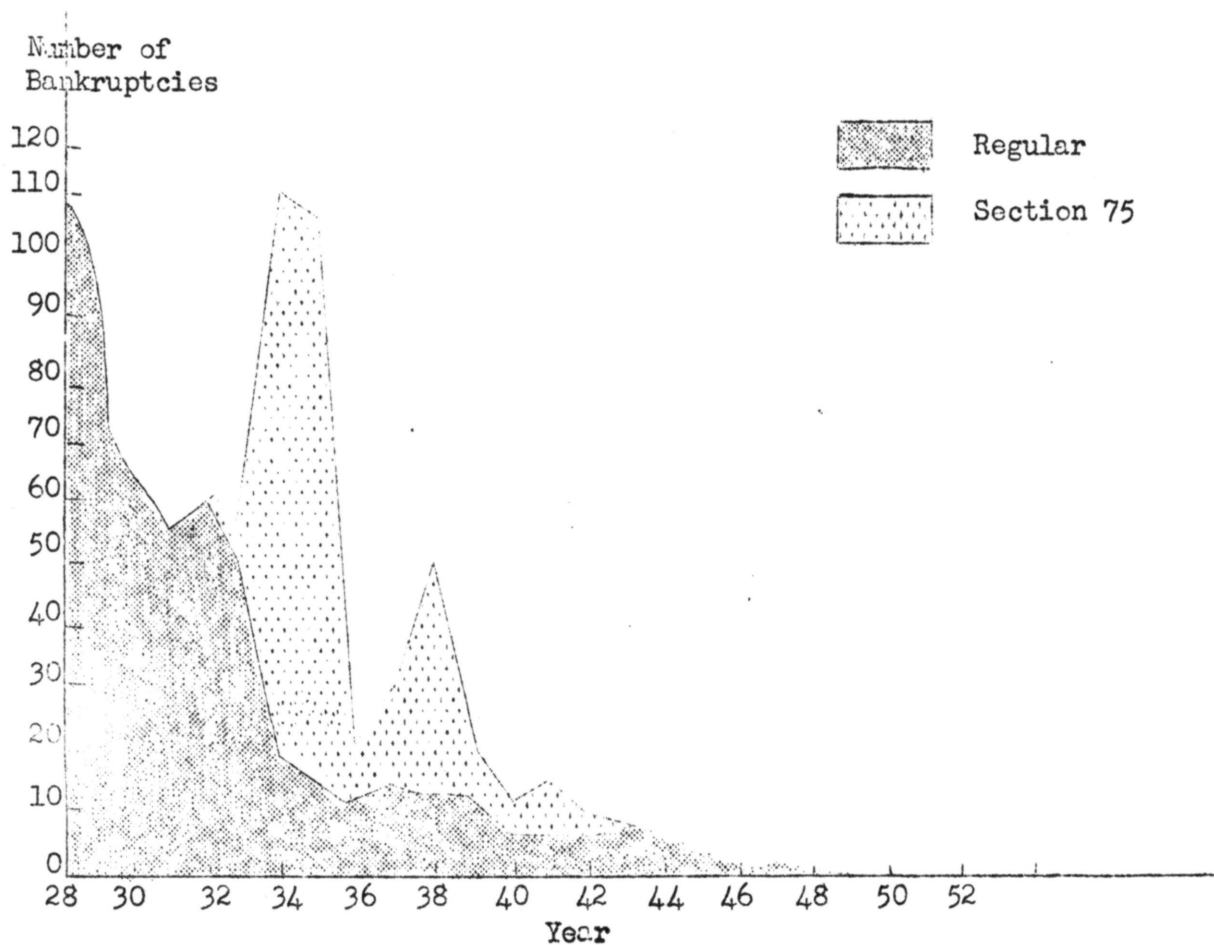
Table V Relation of Section 75 Cases to Total Farmer Bankruptcies in South Dakota, 1928-1952

Year	Farmer Bankruptcies		Section 75 Cases as Per cent of Total Farmer Bankruptcies
	Regular	Section 75	
1928	102	---	---
1929	73	---	---
1930	66	---	---
1931	55	---	---
1932	58	---	---
1933	48	6	9
1934	22	91	81
1935	36	73	67
1936	12	10	45
1937	17	10	41
1938	13	36	73
1939	13	5	28
1940	5	6	55
1941	5	8	62
1942	5	5	50
1943	5	---	---
1944	3	1	---
1945	3	---	---
1946	---	---	---
1947	1	---	---
1948	---	---	---
1949	---	---	---
1950	---	---	---
1951	---	---	---
1952	---	---	---
Total	542	251	45

It is apparent that the number of regular farm bankruptcy cases followed the general pattern of non-farmer bankruptcies. This suggests that section 75 filled a need from the point of view of the farmers which could not be satisfied through regular procedures.

Since 1945, there has only been one (regular) farm case in South Dakota.

Figure 5. Farmer Bankruptcies in South Dakota by
Year and Type of Procedure, 1928-1953



Farm Cases by Type of Farming Area

The total number of cases (1928-1953) has been largest in some of the best farming counties of the state in which farming is relatively diversified and where the effects of the drought may have been less severe than elsewhere. The largest number of bankruptcy cases was in the southeastern corner of the state (Area 4b), both for regular cases and section 75 cases. (Table VI, Figure 6 and 7)

On the whole, it is also evident that the number of section 75 cases was higher in those areas where regular cases were high except for Area 2b where section 75 cases were very numerous in 1938. This suggests that the criticism that farmers took undue advantage of the legislation may not be justified.

Table VI Number of Regular and Section 75 Farmer Bankruptcies in South Dakota by Type of Farming Area

Type of Farming Area	Number of Farmer Bankruptcies		
	Regular	Section 75	Total
1	71	10	81
2a	44	10	54
2b	79	87	166
3a	35	6	41
3b	114	21	135
4a	70	20	90
4b	131	95	226

There were wide areas in South Dakota in which only few bankruptcies were recorded during the 25 year period.

An interesting comparison is that of the incidence of foreclosures with that of bankruptcies. Few counties had less than 200, several more than 1,000 foreclosures during the period 1928-1949. Table VII shows that the number of foreclosures was heaviest in the western part of the states, for the 1928-1949 period. Thus apparently, the number of fore-

closures corresponds more closely to the amount of risk apparently present in farming in the various areas. However, some counties with the highest number of foreclosures also showed a high number of bankruptcies. (Figure 7)

Table VII Relation of Farm Foreclosures to Farmer Bankruptcies in South Dakota by Farming Area and Number of Farms, 1928-1949

Area	Number of Farms in 1950	Foreclosures (1928-49) 1/		Bankruptcies (1928-49)	
		Total Number	Number per 1,000 Farms	Total Number	Number per 1,000 Farms
1	11,047	7,475	680	81	7.3
2a	7,169	4,208	590	54	7.5
2b	9,514	5,518	580	166	17.4
3a	4,869	3,254	670	41	8.4
3b	10,572	4,384	410	135	12.8
4a	10,377	4,371	420	90	8.7
4b	12,783	3,125	240	226	17.7

1/ Source: Farm Mortgage Foreclosures in South Dakota 1921-1949, Gabriel Lundy and Ray F. Pengra, Rev. Supplement to Circular 17, Agricultural Economics Department, South Dakota State College, December 1950.

CHAPTER IV

SECTION 75 CASES IN NORTH AND SOUTH DAKOTA 1934-1949

It is necessary to make a clear distinction between regular bankruptcy cases and section 75 cases. A farmer who filed under section 75 needed only to declare that he was insolvent or unable to meet his debt obligations as they mature. A petitioner was referred to as a debtor until he proceeded under subsection (s) and was adjudged a bankrupt. Thus section 75 cases may be more accurately termed conciliation cases rather than bankruptcy cases.

A. Outcome of Section 75 Cases

Of the 251 section 75 cases recorded in South Dakota, only 28 resulted in discharge for the farm debtor. The remaining 223 cases were dismissed by the court or discontinued by the farmer. It is apparent that the majority of section 75 cases in South Dakota did not result, for the applying farmers, in the relief which they hoped to obtain under the law. (Table VIII, Figure 8)

The dismissal of a case does not always indicate that the farmer obtained no relief under the act. If a farmer made a successful composition or extension agreement with his creditors, under supervision of the court, the case was dismissed by provision of the act. However, in South Dakota very few cases were dismissed for that reason. If a farmer asked for dismissal of the case, his grounds could have been an agreement not under supervision of the court. Several cases in South Dakota were dismissed due to out of court settlements after the

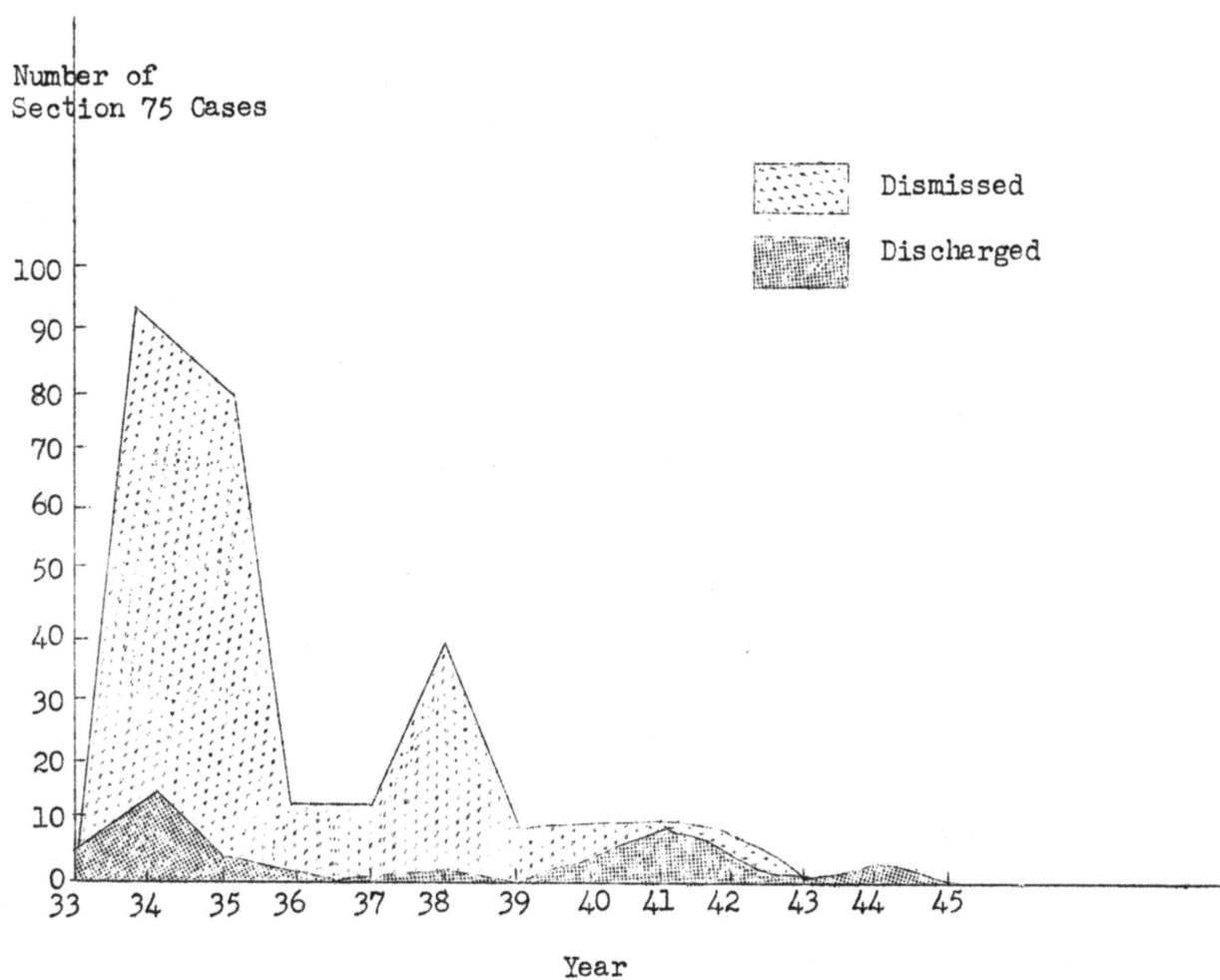
Table VIII Farmer Bankruptcies in South Dakota
By Type of Procedure and Outcome, 1928-1952

Year	Regular		Section 75	
	Discharge	Dismissed	Discharge	Dismissed
1928	100	2		
1929	68	5		
1930	60	6		
1931	51	4		
1932	58	--		
1933	45	3	--	6
1934	20	2	12	79
1935	33	3	2	71
1936	12	--	--	10
1937	17	--	--	10
1938	12	1	2	34
1939	11	2	--	5
1940	5	--	4	2
1941	5	--	6	2
1942	5	--	1	4
1943	5	--	--	--
1944	2	1	1	--
1945	2	1	--	--
1946	--	--	--	--
1947	1	--	--	--
1948	--	--	--	--
1949	--	--	--	--
1950	--	--		
1951	--	--		
1952	--	--		
Totals	512	30	28	223

debtor petitioned for dismissal.

In several other instances, the court dismissed cases because the farmer had apparently neglected to pursue his cases any further. This usually occurred after a considerable amount of time had elapsed without any steps having been taken by the petitioner. In these cases, it does not appear from the records whether the farmer succeeded in reaching an agreement with his creditors. However, the very fact that the farmer petitioned under section 75 may have induced his creditors to

Figure 8. Number of Section 75 Cases in South Dakota
Dismissed and Discharged, 1933-1945



arrive at some settlement.

A much larger proportion of regular farm bankruptcy cases in South Dakota resulted in discharge. Of the 542 regular cases, 512 were discharged and 30 were dismissed.

North Dakota had a total of 2,651 section 75 cases. Of these, 852 resulted in discharge and 1,799 were dismissed. (Table IX, Figure 9)

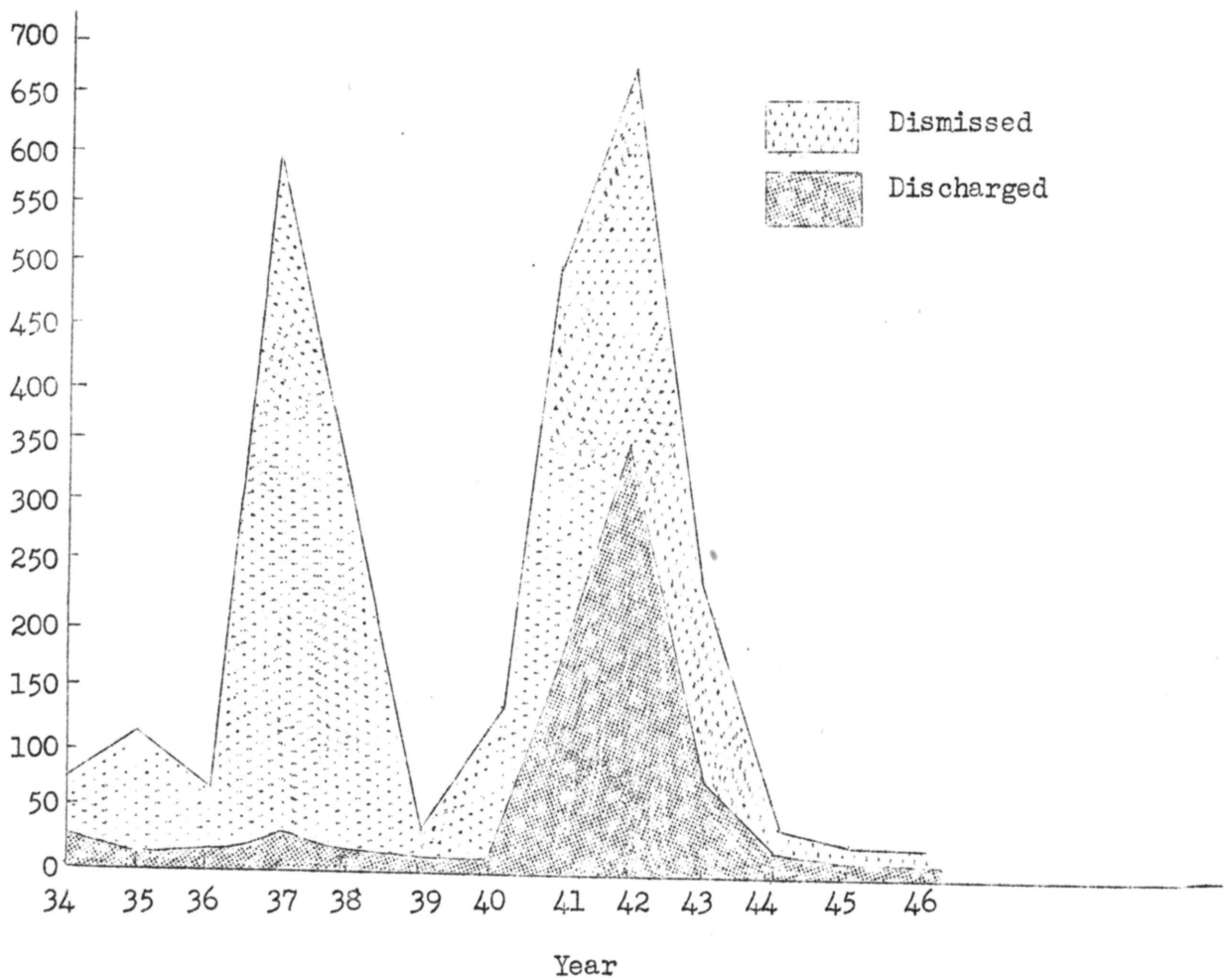
Table IX Farmer Bankruptcies in North Dakota
By Type of Procedure and Outcome, 1928-1952

Year	Regular		Section 75	
	Discharge	Dismissed	Discharge	Dismissed
1928	186	4		
1929	119	9		
1930	79	5		
1931	59	6		
1932	46	1		
1933	30	2	--	--
1934	25	-	21	52
1935	12	-	5	111
1936	10	1	4	70
1937	5	-	35	530
1938	10	-	13	273
1939	5	-	7	10
1940	11	-	40	103
1941	3	1	229	240
1942	3	-	398	247
1943	3	1	81	142
1944	1	-	15	17
1945	4	-	3	1
1946	1	-	1	3
1947	-	-	--	--
1948	-	-	--	--
1949	1	-	--	--
1950	-	1		
1951	-	-		
1952	0	-		
Total	613	31	852	1,799

North Dakota had a relatively larger number of cases going to discharge than South Dakota. The reasons for this are not yet completely

Figure 9. Number of Section 75 Cases in North Dakota
Dismissed and Discharged, 1934-1946

Number of
Section 75 Cases



apparent. However, the larger number of section 75 cases in North Dakota suggests a greater interest on the part of farmers in this state. These farmers were apparently well informed as to the procedures and benefits of the act.

In South Dakota, on the whole, the number of section 75 cases corresponds quite closely to the period of financial distress among farmers. The highest number of cases occurred in 1934 and 1935 with a smaller peak being reached in 1938. This suggests that section 75 served a definite need from the viewpoint of farmers in financial distress, particularly if they desired to remain on the farm. Variations in the number of section 75 cases during the thirties may be at least partially due to the attitude of the courts--and hence the attitude of the conciliation commissioners or attorneys advising farmers--towards this law. Court decisions, which dismissed large numbers of cases for reasons such as unconstitutionality or lack of good faith, probably served as a strong deterrent to those seeking relief under the law.

The highest number of section 75 cases in North Dakota occurred in 1942 when 649 petitions were filed. Several factors may have influenced farmers to seek relief during a period of generally improving economic conditions: (1) Although there were almost as many section 75 cases in North Dakota as in all the rest of the country put together, only a relatively few distressed farmers ever petitioned for relief. In addition, most of the early cases were not successful from the farmers' point of view. (2) Farmers benefited from improved crop yields in 1940 and 1941. This probably encouraged many creditors to try to collect a share of the good crops. (3) An unusually large number of

successful compositions in 1941 may have encouraged farmers to file in 1942.

B. Reasons for Dismissal

The constitutionality of the Frazier-Lenke Act was in dispute during the early years of its life and many cases were dismissed on constitutional grounds. Over 100 cases were dismissed for this reason in North Dakota between July 15, 1936, and November 27, 1936.

In 1938, over 130 cases were dismissed in North Dakota on the grounds that the petitioner did not have enough resources to pay out under a composition, based on the appraised value of his assets and, hence, had not petitioned in good faith. Over 30 South Dakota cases were dismissed in 1938 for this same reason. In 1939 the Supreme Court overturned this cause for dismissal and ruled that a farmer had an absolute right to file an amended petition, despite the absence of a reasonable probability of his financial rehabilitation. ^{34/} This decision may have been reflected in the number of North Dakota section 75 cases which increased from 17 in 1939 to 645 in 1942. In some cases, farmers whose petitions had previously been dismissed applied again for the benefits of the act and were successful in obtaining discharges. (See case 22 in Appendix A)

If the debtor's proposal for an extension or composition was rejected by his creditors, the case was dismissed unless the debtor filed an amended petition under subsection (s) and asked to be adjudged a bankrupt. Many cases were dismissed because of the debtor's failure to file an

^{34/} John Hancock Mutual Life Insurance Company v. Bartels (1939) 308 U.S. 180, 41 Am. B.R. (N.S.) 296.

amended petition.

A basic reason for most dismissals was the financial position of the debtor at the time of filing a petition under section 75. In most of the cases studied, the liabilities of the farmer were greatly in excess of his assets. Foreclosure proceedings had already been completed in many cases and in some cases the period of redemption had expired. This would indicate that (1) farmers did not take advantage of section 75 soon enough or (2) the legislation was enacted too late to aid farmers who were already in a desperate financial condition. A combination of these factors may have contributed to the large number of dismissals in North and South Dakota.

CHAPTER V

CASE STUDY OF SECTION 75 PROCEDURE IN SOUTH DAKOTA

As was pointed out in Chapter I, a number of section 75 cases in South Dakota were selected for detailed analysis in order to determine how section 75, and particularly subsection (s), the Frazier-Lemke Act, operated in actual court proceedings. Selection of these cases was based, in part, on the apparent outcome of the cases, i.e., whether the procedure resulted or did not result in the relief provided by law. While dismissal of procedure does not necessarily indicate that farmers failed to obtain relief, it was apparent from the start that the reasons for dismissal in a large number of cases indicated that these farmers did not obtain the relief provided under section 75. In contrast, a discharge was assumed to mean that the debtor had received some benefits as provided by law. For this reason, the outcome of procedure was an important criterion for selecting the cases. Another basis for selection was the time element. It was known that a large number of cases were dismissed during the first years of the operation of section 75 while the number of discharged cases was small. This situation was reversed during later years; thus a larger number of dismissed cases were selected.

The following discussion is not intended as a final appraisal of the operation of section 75 in South Dakota. The data on which this discussion is based was limited exclusively to information available from bankruptcy records of the United States District Court and from county foreclosure records. This information was often very meager and referred only to procedures involving the activity of the court. In addition,

some of the documents which may have been part of the case records, such as correspondence, were discarded after a period of time so that many circumstances surrounding the cases could not be fully analyzed.

Some of the early petitions were apparently made by persons unfamiliar with procedural details of the law. Most of these cases were terminated after an interval of less than six months. In later years, the cases became more involved which would indicate that debtors, creditors and the court itself had apparently become more familiar with the operation of the law.

Each of the 25 cases in this study has been summarized, in chronological order, in Appendix A. While these cases were not selected at random, they appear to be typical of the section 75 procedures occurring in South Dakota from 1934 to 1949.

A. Outcome of Procedures

Among the 15 cases which were dismissed by the court, seven were dismissed because the debtor failed to file an amended petition under subsection (s) after his proposal for conciliation was rejected by his creditors. (Cases 4, 6, 7, 11, 12, 14, and 16.) It is not clear why these farmers failed to take advantage of subsection (s).

One farmer made an out of court settlement with his creditors and requested a dismissal of the procedure. (Case 2)

Three cases were dismissed because the debtors were unable to obtain sufficient credit after their proposal was accepted by their creditors. (Cases 5, 9, and 10) Here the apparent lack of resources at the

time of the proposal prevented the farmers from reaching a composition agreement with their creditors, even though, in two cases, the debtors had obtained commitments from the Federal Land Bank and Land Commissioner. Since the two farmers did not file an amended petition, it is possible that they reached an agreement after dismissal of the procedure since there was a "personal understanding" between the debtor and the creditors that "as soon as the commitment materialized, the debts of the debtor would be paid on a pro-rata basis and fully discharged by the creditors."

One procedure was dismissed on the grounds that the debtor had no hope of eventual liquidation of his debts and had not petitioned in good faith. (Case 17) This was one of a group of over 20 cases, all filed on the same day in Brown County and all dismissed for the same reason. In this case, the farmer had amended his petition so as to comply with subsection (s). It was this amended petition which was dismissed by the Federal judge. This was one of the most informative cases studied and will be referred to later in a discussion of the court's attitude toward section 75.

As to the 10 discharged cases, it should be noted that a petitioner can be discharged only if he filed an amended petition under subsection (s). Thus a discharge would imply that the farmer obtained a moratorium of up to three years, paid annual rentals fixed by the court, redeemed his property by paying the appraised value into court and received a discharge. It is not certain whether this chain of events actually occurred in any one of the 10 cases. For example, in Case 1 the debtor filed an amended petition but from that point on, the procedure resembled more closely a regular bankruptcy than a procedure under section 75. There was no evidence of an appraisal nor of the setting of rentals. The real

estate was rejected as burdensome and the case was discharged after only 10 months.

One case was discharged after it had been officially transferred in regular bankruptcy procedure. (Case 13) The circumstances in this instance were, however, somewhat unusual since the farmer had been an officer of an insolvent bank and had a large judgment against him. 35/

The eight remaining discharged cases (Cases 3, 18, 19, 20, 23, and 24) contained some or most of the procedural steps which were included in section 75. The property which was not rejected as burdensome was officially appraised in all of these cases. Rentals were set by the court in seven cases and in one case (Case 20), a reappraisal was made. It was not evident under what conditions the discharge was granted, i.e. whether the farmer had paid the appraised value into court. Thus the records do not show whether the farmers actually redeemed their farms after they had paid rentals for several years. In Case 20, for example, a reappraisal was ordered in 1943 and the farmer was given 90 days in which to pay the reappraisal value into court. The case was discharged in 1944 without recording whether the farmer had paid this amount. In another case a discharge was granted in 1942 and the farmer petitioned in 1945 to close the case, stating that he had settled with his secured creditors by selling his real estate.

Thus, it is not certain if a discharge under section 75 really means that the debtor received the entire relief as provided for by law, i.e. a moratorium and subsequent redemption of the farm.

35/ Several other section 75 cases in South Dakota are known to have occurred under similar conditions, i.e. where the debts of the farmer were largely the result of non-farming activities.

Further studies may yield additional information on this subject. It is apparent, however, that in the majority of the discharged cases studied, some relief had been forthcoming, primarily in the form of a moratorium.

B. Financial Position of Debtors and
Apparent Losses to Creditors

Information about the financial position of farmers in the 25 cases studied was based primarily on a listing contained in the debtor's petition. Court records sometimes contained, however, the proof of claims by the creditors, the appraisal of property and the testimony of the debtor. This information was used whenever possible.

A question may be raised regarding the reliability which can be placed on the farmer's estimate of his financial condition. The listing of liabilities was probably accurate and complete since the farmer had nothing to gain if he failed to enumerate all of his debts. In contrast, the farmer is often assumed to estimate the value of his assets as low as possible in order to become eligible for bankruptcy.

While this argument may be true in regular bankruptcy procedure, it is not certain to apply to section 75 cases, particularly when it is known that courts were disinclined to give relief to petitioners who had little hope of financial rehabilitation. Under such conditions, farmers may have attempted to appear in as good a financial condition as possible in order to deserve debt relief. Thus, the assumption that farmers would tend to undervalue their assets may not be valid in section 75 cases.

Table X gives a summary of the financial position of the petitioners.

Table X Apparent Losses Sustained by Creditors
in 25 Section 75 Cases in
South Dakota 1934-1942

Case No.	Date of Petition	Total Assets of Debtor	Total Indebtedness	Value of assets as Compared with Liabilities
1	8/24/34	\$ 5453.00	\$ 13261.76	\$ - 7808.76
2	8/30/34	2957.00	8470.55	- 5513.55
3	9/29/34	7261.00	10752.47	- 3491.47
4	9/29/34	2300.00	3614.87	- 1314.87
5	9/29/34	6887.00	10571.85	- 3684.85
6	10/15/34	925.00	2640.62	- 1715.62
7	11/10/34	27875.00	32906.00	- 5031.00
8	12/ 7/34	1928.50	2892.78	- 964.28
9	12/16/34	3700.00	2959.00	+ 741.00
10	2/ 5/35	3699.25	3281.42	+ 417.83
11	2/11/35	5692.50	6205.00	- 512.50
12	10/12/35	1090.00	4493.26	- 3403.26
13	12/23/35	20390.25	95739.25	-75349.00
14	9/28/36	27255.00	23371.68	+ 3883.32
15	4/22/37	5801.00	7854.32	- 2053.32
16	6/21/37	8100.00	5537.00	+ 2563.00
17	2/28/38	4446.00	15575.00	-11129.00
18	2/28/38	1362.00	5241.00	- 3879.00
19	3/ 4/38	1981.00	6234.80	- 4253.80
20	5/ 1/40	4559.00	9924.92	- 5365.92
21	5/15/40	6136.00	21466.61	-15330.61
22	5/21/40	2818.00	8962.68	- 6144.68
23	5/21/40	6342.50	14729.36	- 8386.86
24	7/28/41	1175.00	2696.49	- 1521.49
25	6/29/42	5235.50	16208.42	-10972.92

In only four cases did the assets of the farmer exceed his debts. In 13 cases, the excess of debts over assets exceeded the value of the assets, indicating an extreme distress situation.

A summary of the debtor's liabilities, by secured and unsecured debts, is contained in Table XI. It is apparent that most farmers had attempted to obtain funds by mortgaging nearly everything on the farm. Several petitioners had from one to five chattel secured loans in addition to their first and second real estate mortgages.

Table XI Financial Position of Debtors in 25 Section 75 Cases by
Type of Security and Percentage Distribution

Case No.	Total Indebtedness	Secured Indebtedness			Taxes	Unsecured Indebtedness	Percentage Distribution			
		Real Estate	Other	Secured Real Estate			Secured Real Estate	Secured Other	Taxes	Unse- cured
1	\$ 13261.76	\$ 10900.00	\$ 486.76	82	---	\$ 1875.00	4	---	---	14
2	8470.55	5694.41	2000.00	67	144.14	632.00	24	---	2	7
3	10752.47	6004.70	3480.00	56	187.91	1097.86	32	---	2	10
4	3614.87	1500.00	700.00	41	308.63	1106.24	19	---	9	31
5	10571.85	5800.00	2004.00	55	461.44	2306.41	19	---	4	22
6	2640.62	1000.00	665.47	38	280.00	695.15	25	---	11	26
7	32906.00	16500.00	2120.00	50	105.00	14181.00	6	---	1	43
8	2892.78	2168.48	35.00	75	---	689.30	1	---	---	24
9	2738.00	1000.00	960.00	34	46.00	952.00	32	---	2	32
10	3281.42	3150.00	---	96	49.42	82.00	---	---	1	3
11	6205.00	1000.00	4325.00	16	700.00	180.00	70	---	11	3
12	4493.26	---	840.00	---	64.26	3589.00	19	---	1	80
13	95739.25	20880.00	519.00	22	---	74340.25	1	---	---	77
14	23371.68	20000.00	1200.00	86	331.68	1840.00	5	---	1	8
15	7854.32	6385.98	1133.00	82	91.34	244.00	14	---	1	3
16	5537.00	4500.00	837.50	82	50.00	150.00	15	---	1	2
17	15575.00	12800.00	250.00	82	---	2525.00	2	---	---	16
18	5241.00	---	3183.00	---	51.00	2007.00	61	---	1	38
19	6234.80	---	1794.80	---	80.00	4360.00	29	---	1	70
20	9924.92	9414.63	---	94	40.29	470.00	---	---	1	5
21	21466.61	15795.00	55.00	74	158.61	5458.00	>1	---	1	25
22	8962.68	8712.82	219.40	97	11.50	19.96	2	---	>1	>1
23	14729.36	12000.00	610.00	82	24.36	2095.00	4	---	>1	14
24	2696.49	---	1564.32	---	12.17	1120.00	58	---	>1	42
25	16208.42	11926.17	200.00	74	---	4082.25	1	---	---	25

Records reveal that most of the unsecured debts consisted of open accounts with grocery stores, elevators, lumber yards, oil companies and other retail establishments.

In general, the value of the property, as estimated by the farmer in his petition did not materially differ from the value of the appraisal under subsection (s). Some of the differences may have been due to the lapse of time between the farmers' estimates and the official appraisal. (Table XII)

From the available information, it is obviously difficult to evaluate the losses sustained by creditors as a result of the Frazier-Lemke Act. Most of the real estate secured debts had been contracted during a period of high land prices and the security of the lenders was seriously impaired before proceedings under section 75 were instigated. It is likely that most of the creditors would have sustained losses even if the debtor's petition had been dismissed and a foreclosure sale held. In addition, state moratorium legislation delayed creditors from obtaining ownership of the debtor's property.

C. Tenants and Owners as Petitioners

Among the 25 cases studied, four debtors were tenants and owned no real estate. Three of these farmers filed amended petitions under subsection (s) and were granted discharges. (Cases 18, 19, and 24) The fourth case was dismissed. (Case 12) Thus the application of the Frazier-Lemke Act to tenants seemed assured in South Dakota and ownership status of the farmer was apparently not a ground for denying relief under the law.

Table XII Debtor's Estimate of Value of Property
as Compared With Appraised Value

Case No.	Date of Petition	Value of Property as Listed by Debtor		Date of Appraisal	Appraised Value of Property	
		Real Estate	Personal Property		Real Estate	Personal Property
17	2/28/38	\$ 2800.00	\$ 1646.00	8/ 2/38	\$ 3485.00	\$ 1346.00
18	2/28/38	none	1362.00	9/ 6/38	none	815.00
19	3/ 4/38	none	1981.00	8/13/38	none	2113.80
20	5/ 1/40	3500.00	1059.00	10/ 8/40	4000.00	1016.00
21	5/15/40	6000.00	136.00	10/ 4/40	5000.00	165.00
22	5/21/40	1600.00	1218.00	1/ 6/41	2100.00	772.00
23	5/21/40	6000.00	342.50	11/30/40	4800.00	785.00
25	6/29/42	4500.00	735.50	10/12/42	4000.00	1240.00

D. Rental Agreements During Moratorium

The only payments received by creditors during the three year moratorium was a yearly rental determined by the court. In the cases studied, rentals were generally (1) one-fourth to one-third of all grain, (2) one-fourth to all of government payments, and (3) cash rent for pasture and buildings. Typical rentals during the later 1930's amounted to approximately \$200 per year. (Table XIII)

E. Mortgagees and Sources of New Credit

Insurance companies held real estate mortgages in about one-half of the cases studied. The Federal Land Bank of Omaha, Nebraska was the largest single holder of real estate mortgages in these cases. In addition, many distressed farmers attempted to compose their debts by obtaining credit in the form of Federal Land Bank and Land Commissioner Loans. Thus, these agencies were the chief source of credit for refinancing distressed farmers in these cases.

Table XIII Annual Rentals Set By Court and
Amount Paid By Debtors

Case No.	Date of Petition	Acres in Farm	Appraisal Value of Farm	Value per Acre	Rental	
					Terms	Amount Year
18	2/28/38	160	\$ 815.00	\$ 5.09	-----	\$.15.00
19	3/ 4/38	90	2113.80	23.50	-----	105.00
20	5/ 1/40	320	5016.00	15.68	1/3 of All Grain All Govt. Payments \$40 for Pasture and Buildings	183.55-1941 276.95-1942
21	5/15/40	480	5165.00	10.76	1/3 of All Grain 1/4 of All Govt. Payments \$60 for Pasture and Buildings	274.00-1941 149.32-1942
22	5/21/40	320	2872.00	8.98	1/4 of All Grain 1/4 of All Govt. Payments \$25 for Pasture and Buildings	266.50-1941 179.54-1942
23	5/21/40	240	5585.00	23.27	1/3 of All Grain 1/4 of All Govt. Payments \$50 for Pasture and Buildings	
25	6/29/42	160	5240.00	32.75	1/3 of All Grain 1/4 of All Govt. Payments \$50 for Pasture and Buildings	-1943 2668.58-1944 -1945

Chattel mortgages were usually held by commercial banks and individuals. Farm machinery was often mortgaged to the seller for the balance of the purchase price.

F. Treatment of Section 75 Cases by the Court

It has been noted that section 75 of the United States Bankruptcy

Law was poorly written and thus subject to many legal controversies. Several years elapsed before the provisions of section 75 were interpreted by the court and applied in the sense which had apparently been intended by Congress.

In the early 1930's, many petitions in South Dakota were dismissed for reasons of unconstitutionality. This opinion was apparently held by many lower courts until 1937, when the United States Supreme Court declared the act constitutional. 36/

In 1938, many cases were dismissed in South Dakota because of lack of good faith. Lack of resources, on the part of the petitioner, was argued to be lack of good faith in applying for relief under section 75. The decision of the Federal judge in Case 17 is a notable example of the reasoning behind these dismissals. In this case, the court filed the following written decision:

I

That the proposal of the debtor is indefinite and uncertain; that said proposal does not include or offer any equitable or feasible method of liquidation for secured creditors or of financial rehabilitation for the debtor; that it does not afford, in the light of the debtor's financial condition as exhibited by his schedules, any reasonable prospect for liquidation of debts or rehabilitation of debtor within a reasonable time, or at all; that it is not for the best interest of all creditors, or any creditors; that said proposal is not and was not at any time in good faith within the meaning of the Bankruptcy Act; that the object and intention of the debtor in submitting said proposal was to hold possession of all his property as long as he might do so and use and enjoy the same and keep it away from his secured creditors without any reasonable prospect of liquidating his debts or of financial rehabilitation; and the debtor hoped and intended thereby to prevent secured and preferred creditors from pursuing their legal remedies and to delay and defraud said creditors and use up and exhaust their property.

36/ Collier on Bankruptcy, op. cit., p. 124

II

That said debtor failed, neglected and omitted to comply with the statutory requirement established as a condition precedent to adjudication in bankruptcy under subdivision (s) of section 75 of the Bankruptcy Act, and failed, neglected and omitted before seeking adjudication under subdivision (s) to offer to his creditors a proposal for compromise and extension which included an equitable and feasible method of liquidation for secured creditors and of financial rehabilitation for the debtor, or which was for the best interests of all creditors and failed, neglected and omitted to make in good faith any offer or proposal of compromise or extension complying with the requirements of the Bankruptcy Act.

III

That the order adjudicating debtor a bankrupt upon his said amended petition was erroneous and without authority of law and improvidently entered.

IV

That all proceedings now pending in the above matter should be forthwith remand to the Clerk of this Court, and that the debtor's amended petition and original petition should be in all thing dismissed, and all proceedings heretofore thereon had by or before the said Conciliation Commissioner or the Court should be in all things vacated, set aside and held for naught.

It would seem that this decision was in contradiction with the objectives and meaning of section 75. The United States Supreme Court had stated, in 1937, that "the legislation is designed to aid victims of the general economic depression....It is reasonable to assume that under these circumstances, the interests of all concerned will be better served by leaving him in possession than by installing a disinterested receiver or trustee." 37/

Legal controversy surrounding lack of resources as a ground for dismissal was terminated by a Supreme Court decision in 1939. The court made the following statements in regard to this case:

37/ Wright v. Vinton Branch Mountain Trust Bank, (1937) 300 U.S. 33, 33 Am. B.R. (N.S.) 353.

The subsections of section 75 which regulate the procedure in relation to the effort of a farmer-debtor to obtain a composition or extension contain no provision for a dismissal because of the absence of a reasonable probability of the financial rehabilitation of the debtor. Nor is there anything in these subsection which warrant the imputation of lack of good faith to a farmer-debtor because of that plight. The plain purpose of section 75 was to afford relief to such debtors who found themselves in economic distress, however severe, by giving them the chance to seek an agreement with their creditors and, failing this, to ask for the other relief afforded by subsection (s). The farmer-debtor may offer to pay what he can....and he is not to be charged with bad faith in taking the course for which the statute expressly provides. 38/

It can therefore be concluded that, while the interpretation of the law as given by the United States District Court of South Dakota may have been justifiable, the decisions were in favor of the creditors and not the petitioners. Thus, the burden of proof nearly always rested on the debtors.

38/ John Hancock Mutual Life Insurance Company v. Bartels, (1939) 308 U.S. 180, 41 Am. B.R. (N.S.) 296.

CHAPTER VI

SUMMARY AND CONCLUSIONS

During the 25 years included in this study, farm bankruptcies constituted over three-fourths of all bankruptcy cases in North Dakota and nearly one-half of all bankruptcy cases in South Dakota. The number of regular farm bankruptcies was high in the 1920's but declined rapidly after 1928. The large number of farmer bankruptcies after 1933 consisted mainly of section 75 cases.

The largest number of farm cases in North Dakota occurred in the western half of the state. In South Dakota most of the farm cases occurred in the relatively low risk areas in the southeastern part of the state. Apparently the distribution of bankruptcies in North Dakota corresponds more closely to the amount of risk involved in farming.

The number of farmer bankruptcies in North and South Dakota were relatively small when compared to the number of farm foreclosures during the same period. This would indicate that farmers were unable or unwilling to obtain relief under existing bankruptcy laws.

North Dakota had a relatively larger number of section 75 cases going to discharge than South Dakota. Of the 251 cases recorded in South Dakota only 28 resulted in discharge. North Dakota had a total of 2,651 cases of which 852 were discharged.

Several problems presented themselves in regard to the analysis of section 75 cases. First, the long interval between the occurrence of cases and the time of this study made it necessary to depend heavily on court records as a source of information. Second, the legislation was

extremely complicated and poorly drafted, which caused many legal controversies. Third, it was difficult to appraise indirect effects of the law on either debtors or creditors.

The experience of farmers in North and South Dakota would indicate that section 75, particularly in its early years of operation, was not an adequate means of relieving financial distress among farmers. Several factors, separately or in combination, tended to reduce the effectiveness of this legislation.

Section 75, as originally enacted, provided only for voluntary conciliation. The credit policies of many lenders did not permit them to enter into any agreement which would reduce the contractual obligations of the debtor. Among the 25 cases studied, one voluntary conciliation was known to have been reached; this was an out of court settlement.

The Frazier-Lemke Act provided for compulsory settlement at the request of the debtor but was declared unconstitutional only three months after its enactment. A large number of cases in North and South Dakota were dismissed on constitutional grounds before the amended provision was finally held constitutional in 1937.

Many South Dakota cases were dismissed by the court on grounds that the debtor had no hope of eventual rehabilitation. In 1937, the Supreme Court ruled that the financial condition of the farmer was not a cause for dismissal under the provisions of section 75.

Farmer-debtor relief legislation was enacted too late to help many farmers who were already in critical financial condition. In addition, many farmers waited until they were hopelessly in debt before petitioning for relief under section 75. Foreclosure proceedings had already been completed in many of the cases studied which would indicate that

many farmers did not understand the purpose and procedures of the act.

It is argued that farmers generally may not favor using the legal provisions at their disposal to obtain relief from financial obligations. A strong sense of moral obligation may have restrained many farmers from becoming voluntary bankrupts even when their indebtedness was far in excess of their assets. Under section 75, however, a farmer could initiate conciliation proceedings without being adjudged a bankrupt. The term bankrupt was used only after an amended petition had been filed under the Frazier-Lemke Act; this may explain why many farmers were unwilling to take advantage of this provision.

Decisions of the court led to the dismissal of many cases in South Dakota. This may have discouraged some distressed farmers from petitioning for relief during the 1930's. It is reasonable to assume that debtors used the provisions of section 75 only if they expected to receive some relief under the law.

It would seem that any permanent farmer-debtor relief legislation should be enacted before an economic crisis has actually occurred. Experience under previous bankruptcy laws has shown that emergency legislation is often drafted with more emotion than deliberation. It should not be assumed, however, that future legislation cannot be patterned after section 75. Although the act was a hastily written and temporary piece of legislation, its provisions were considerably strengthened by court decisions and by actual practice.

It may be expected that future legislation will be faced with many of the same problems which were encountered by section 75. Therefore, it is desirable that the weaknesses of the old legislation be eliminated

by the addition of new and more farsighted measures designed to reduce economic hardship among farmers.

This study has presented only a rather general view of the bankruptcy experience of farmers in North and South Dakota. There is need for a more extensive study of this problem. The Great Plains States may be a particularly fertile field for additional study since farmers in this area have made more frequent use of bankruptcy provisions than have farmers in most other sections of the country.

APPENDIX A

SUMMARY OF CASE STUDY

CASE NO. 1

County: Yankton
 Petition filed: 8/24/34

Total acres in farm: 320
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

The debtor was not living on the farm at the time of this petition. The farm was rented and the tenant apparently furnished all machinery and stock since none of these items appeared on the debtor's petition.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
Description of property		
Real estate mortgage	\$ 4620.00	\$ 8000.00
Second mortgage	none	2900.00
City lot in Yankton	500.00	379.52
Mortgage on automobile	180.00	107.24
	<u>\$ 5300.00</u>	<u>\$11386.76</u>
Unsecured:		
Number of unsecured creditors: 7		
Total amount of unsecured debts:		\$ 1875.00
Real estate and personal property taxes:		<u>none</u>
<u>Total indebtedness:</u>		\$ 13261.76

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 5120.00
Value of livestock owned:	none
Value of other personal property:	<u>333.00</u>
<u>Total value of all assets:</u>	<u>\$ 5453.00</u>
Excess of debts over assets:	\$ 7808.76

C. PROCEDURE AND OUTCOME OF CASE:

The debtor received an approval of a Land Commissioner's loan for \$4500 secured by a first mortgage on the real estate with the condition that these proceeds pay all of the debts of the debtor. The proposal of the debtor was as follows: "That the holder of first mortgage agree to accept as full settlement \$4000. That the holder of second mortgage agree to accept in full settlement the sum of \$200. That the unsecured creditors agree to accept in full settlement of their claims a sum equal to 10 per cent of their claims.

This proposal was rejected by the creditors and the debtor filed an amended petition under subsection (s).

The debtor was living in town at the time of his petition. He stated that his retirement from the farm was due to the sickness and death of his wife but he intended to return to farming in the near future. The farm was rented on a cash-crop-share basis.

CASE NO. 1
(continued)

C. PROCEDURE AND OUTCOME OF CASE: (continued)

A trustee was appointed and all of the assets of the debtor were disposed of and converted into cash. All real estate was rejected as burdensome. The sum of \$223.39 was received by the trustee and distributed to the creditors.

Discharge was granted June 6, 1935.

CASE NO. 2

County: Brown
 Petition filed: 8/30/34

Total acres in farm: 160
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a diversified type of farm which apparently had adequate buildings and equipment. Livestock included 10 horses, 22 cattle, 10 sheep, 45 hogs and 120 chickens.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ 2000.00	\$ 5694.41
Chattel mortgage	572.00	2000.00
	\$ 2572.00	\$ 7694.41

Unsecured:

Number of unsecured creditors: 9

Total amount of unsecured debts: \$ 632.00

Real estate and personal property taxes: 144.14

Total indebtedness: \$ 8470.55

Assets (as estimated by the debtor)

Value of real estate owned: \$ 2000.00

Value of livestock owned: 572.00

Value of other personal property: 385.00

Total value of all assets: \$ 2957.00

Excess of debts over assets: \$ 5513.55

C. PROCEDURE AND OUTCOME OF CASE:

Proceedings were dismissed upon petition of the debtor. The debtor made a petition to the court in which he stated: "Since the start of these proceedings I have effected a settlement with my creditors outside of this court and ask that these proceedings be dismissed as fully as though they had never been started." The case was dismissed on February 1, 1935.

CASE NO. 3

County: Moody
 Petition filed: 9/29/34

Total acres in farm: 120
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This was a combination grain and livestock farm located in a relatively favorable farming area. The debtor apparently had a full line of machinery, four horses, 50 cattle, 18 sheep, and 11 hogs.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ 5000.00	\$ 4004.70
Second real estate mortgage	none	2000.00
Mortgage on livestock and crop	700.00	2100.00
Mortgage on farm machinery	880.00	880.00
Mortgage on 1930 crop	none	500.00
	<u>\$ 6580.00</u>	<u>\$ 9484.70</u>

Unsecured:

Number of unsecured creditors:	10	
Total amount of unsecured debts:		\$ 1097.86
Real estate and personal property taxes:		<u>187.91</u>
<u>Total indebtedness:</u>		\$10752.47

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 5100.00
Value of livestock owned:	736.00
Value of other personal property:	<u>1425.00</u>
<u>Total value of all assets:</u>	\$ 7261.00
Excess of debts over assets:	\$ 3491.47

C. PROCEDURE AND OUTCOME OF CASE:

No agreement was reached between the debtor and his creditors. The debtor filed an amended petition under subsection (s) and was adjudged a bankrupt on February 25, 1935.

Appraisers were appointed and their appraisal was filed on April 24, 1935. All real estate of the debtor was rejected as burdensome since it was encumbered for more than its full value and was sold at a foreclosure sale. Personal property was appraised at \$2248.

On February 13, 1936, the debtor petitioned for a discharge which he received on April 7, 1936.

CASE NO. 4

County: Perkins
 Petition filed: 9/29/34

Total acres in farm: 160
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a livestock farm in the western part of the state. Personal property of the debtor consisted of 26 head of cattle and general household furnishings. No machinery was listed on the schedule.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Livestock mortgage	\$ 300.00	\$ 700.00
Real estate mortgage	1500.00	1500.00
	<u>\$ 1800.00</u>	<u>\$ 2200.00</u>

Unsecured:

Number of unsecured creditors: 4

Total amount of unsecured debts: \$ 1106.24

Real estate and personal property taxes: 308.63

Total indebtedness:— \$ 3614.87

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 1500.00
Value of livestock owned:	300.00
Value of other personal property:	<u>500.00</u>
<u>Total value of all assets:</u>	<u>\$ 2300.00</u>
Excess of debts over assets:	\$ 1314.87

C. PROCEDURE AND OUTCOME OF CASE:

In the conciliation proceedings, the debtor made this proposal to his creditors: "I offer to turn over to my creditors my commitment from the Federal Land Bank and Land Commissioner at Omaha, Nebraska, which is in the sums of \$800 and \$600 respectively. That the loan now running to the (Federal agency holding livestock mortgage) as shown in my schedule, is not to be paid in accordance with the commitment, and I offer the commitment as it stands to be closed up and paid to my creditors in full satisfaction of all my debts as they do appear in my schedule herewith filed."

This proposal was rejected by the majority of the creditors and the conciliation commissioner recommended that the proceedings be dismissed. The case was dismissed on January 25, 1935.

CASE NO. 5

County: Perkins
 Petition filed: 9/29/34

Total acres in farm: 680
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This farm consisted mostly of pasture and hay land although a few acres were under cultivation. The debtor owned 32 head of cattle and a small amount of farm machinery.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ 5800.00	\$ 5800.00
Chattel mortgage	2004.00	2004.00
	<u>\$ 7804.00</u>	<u>\$ 7804.00</u>

Unsecured:

Number of unsecured creditors: 8

Total amount of unsecured debts: \$ 2306.41

Real estate and personal property taxes: 461.44

Total indebtedness: \$10571.85

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 5000.00
Value of livestock owned:	770.00
Value of other personal property:	<u>117.00</u>
<u>Total value of all assets:</u>	<u>\$ 6887.00</u>
Excess of debts over assets:	\$ 3684.85

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made the following proposal to his creditors: "I hereby offer to all of my creditors in full satisfaction of their claims against me, my Federal Land Bank and Federal Land Commissioner's commitment for a loan against my land in a sum not determined."

The creditors accepted this proposal, but only on condition that the above commitment would materialize. Since the commitment could not be paid immediately, the case was closed by the conciliation commissioner. The personal understanding between the debtor and creditors was that as soon as the commitment materialized, the debts of the debtor would be paid on a pro-rata basis and fully discharged by the creditors, but if the commitment did not materialize the debts would remain unchanged. This case was dismissed on March 11, 1935.

CASE NO. 6

County: Perkins
 Petition filed: 10/15/34

Total acres in farm: 120
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a relatively small farm with little equipment. Livestock consisted of two horses and five hogs. About half of the land was under cultivation.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured: <u>Description of property</u>	Value of <u>security</u>	Amount <u>of debt</u>
Contract for deed	\$ 500.00	\$ 1000.00
Chattel mortgage	none	143.00
Mortgage on hogs	none	100.00
Mortgage on plow	150.00	222.47
Mortgage on crop	none	200.00
	<u>\$ 650.00</u>	<u>\$ 1665.47</u>

Unsecured:

Number of unsecured creditors: 10	
Total amount of unsecured debts:	\$ 695.15
Real estate and personal property taxes:	<u>280.00</u>
<u>Total indebtedness:</u>	\$ 2640.62

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 500.00
Value of livestock owned:	120.00
Value of other personal property:	<u>305.00</u>
<u>Total value of all assets:</u>	\$ 925.00
Excess of debts over assets:	\$ 1715.62

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made the following offer to his creditors during conciliation proceedings: "I offer to give to my creditors in full satisfaction of their claims my commitment from the Federal Land Bank and Federal Land Commissioner."

This proposal was rejected by the creditors and the conciliation commissioner recommended that the proceedings be dismissed. The case was dismissed on March 12, 1935.

CASE NO. 7

County: Moody
 Petition filed: 11/10/34

Total acres in farm: 186
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This farm included a good set of buildings and a complete line of farm machinery. Livestock consisted of 11 horses, 47 head of cattle and 40 hogs. This debtor was apparently engaged in a rather large scale farming operation.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$13500.00	\$12500.00
Second real estate mortgage	1000.00	4000.00
Chattel mortgage	2600.00	1700.00
Chattel mortgage	none	250.00
Chattel mortgage	none	170.00
	<u>\$16100.00</u>	<u>\$18620.00</u>

Unsecured:

Number of unsecured creditors:	12	
Total amount of unsecured debts:		\$14181.00
Real estate and personal property taxes:		<u>105.00</u>
Total indebtedness:		\$32906.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$13500.00
Value of livestock owned:	1785.00
Value of other personal property:	<u>2590.00</u>
<u>Total value of all assets:</u>	<u>\$27875.00</u>
Excess of debts over assets:	\$ 5031.00

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made this proposal to his creditors: "To the (insurance company holding real estate mortgage), that he would give to the company two-fifths of the crop of the farm for a period of three years in lieu of interest due upon the mortgage. That he would pay the said company the sum of \$10,000 cash in full settlement of their claim. To all of the other creditors of the debtor, he would pay 20 per cent of the face value of their claims."

The creditors apparently rejected this proposal and the debtor did not file an amended petition. The case was dismissed on September 10, 1937 upon recommendation of the conciliation commissioner.

CASE NO. 8

County: Brown
 Petition filed: 12/7/34

Total acres in farm: 80
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a small farm with very little machinery or livestock. Personal property of the debtor consisted of two horses, two cows, 50 chickens, a few tools and general household furnishings.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of	Amount
<u>Description of property</u>	<u>security</u>	<u>of debt</u>
Real estate mortgage	\$ 1600.00	\$ 2168.48
Mortgage on horses	35.00	35.00
	<u>\$ 1635.00</u>	<u>\$ 2203.48</u>

Unsecured:

Number of unsecured creditors: 6

Total amount of unsecured debts: \$ 689.30

Real estate and personal property taxes:

none

Total indebtedness: \$ 2892.78

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 1600.00
Value of livestock owned:	83.50
Value of other personal property:	<u>245.00</u>
<u>Total value of all assets:</u>	<u>\$ 1928.50</u>
Excess of debts over assets:	\$ 964.28

C. PROCEDURE AND OUTCOME OF CASE:

The real estate of the debtor was previously foreclosed and sold for \$2225. A sheriff's deed was issued and an order was made for the debtor to vacate the premises. The court rules that the debtor did not own the real estate and that the same should be stricken from the records.

The debtor advised the conciliation commissioner that the above debt was the only one that he was interested in adjusting and that he was through so far as the court was concerned. The case was dismissed on April 12, 1935.

CASE NO. 9

County: Perkins
 Petition filed: 12/16/34

Total acres in farm: 160
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This farm was located in an area which is primarily used for cattle raising. It would seem that this farmer was rather poorly equipped for carrying on general farming operations. Personal property included one tractor, 13 mixed cattle and 11 hogs.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of	Amount
<u>Description of property</u>	<u>security</u>	<u>of debt</u>
Real estate mortgage	\$ 3000.00	\$ 1000.00
Mortgage on stock and machinery	460.00	460.00
Chattel mortgage	140.00	500.00
	<u>\$ 3600.00</u>	<u>\$ 1960.00</u>

Unsecured:

Number of unsecured creditors:	3	
Total amount of unsecured debts:		\$ 952.00
Real estate and personal property taxes:		<u>46.00</u>
<u>Total indebtedness</u>		\$ 2958.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 3000.00
Value of livestock owned:	315.00
Value of other personal property:	<u>385.00</u>
<u>Total value of all assets:</u>	\$ 3700.00
Excess of debts over assets:	

C. PROCEDURE AND OUTCOME OF CASE:

Debtor's proposal to his creditors: "I do hereby make and offer to all of my creditors my Federal Land Bank and Commissioner's Commitment given me as a loan on my land, which Commitment is in the sum of \$1000, and I offer the same in full satisfaction of my debts."

The creditors accepted this proposal but only on condition that this commitment would materialize. Since the commitment could not be paid at this time, the case was ordered closed and dismissed by the conciliation commissioner.

The personal understanding between the debtor and the creditors was that as soon as the commitment materialized, the debts of the debtor would be paid on a pro-rata basis and fully discharged. If the commitment did not materialize, the debts are to remain unchanged.

CASE NO. 10

County: Yankton
 Petition filed: 2/5/35

Total acres in farm: 31
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This farm consisted on only 31 acres, most of which was pasture. Livestock included four horses, four cows and eight hogs. No farm equipment appeared on the schedules.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured: <u>Description of property</u>	Value of <u>security</u>	Amount <u>of debt</u>
Real estate mortgage	\$ 3100.00	\$ 3150.00

Unsecured:

Number of unsecured creditors: 1		
Total amount of unsecured debts:		\$ 82.00
Real estate and personal property taxes:		<u>49.42</u>
<u>Total indebtedness:</u>		\$ 3281.42

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 3300.00
Value of livestock owned:	129.00
Value of other personal property:	<u>270.25</u>
<u>Total value of all assets:</u>	\$ 3699.25
Excess of debts over assets:	

C. PROCEDURE AND OUTCOME OF CASE:

Debtor's proposal to creditors: "The debtor offers to settle the claim of the (holder of real estate mortgage) for \$2500 and to his unsecured creditor he offers to pay a small percentage of the claim if given time to raise the money."

The creditors accepted this proposal but the debtor was unable to obtain the necessary money. The debtor did not file an amended petition and the case was dismissed May 31, 1935.

CASE NO. 11

County: Perkins
 Petition filed: 2/11/35

Total acres in farm: 160
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a relatively small but well equipped farm. The debtor owned eight horses, 37 cattle, seven hogs and 50 chickens. Farm machinery included a tractor and combine. This farmer usually rented additional land.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of <u>security</u>	Amount <u>of debt</u>
<u>Description of property</u>		
Real estate mortgage	\$ 4300.00	\$ 1000.00
Note and mortgage	275.00	1200.00
Note and mortgage	300.00	1100.00
Chattel mortgage	575.00	1150.00
Note and mortgage	<u>none</u>	<u>875.00</u>
	\$ 5450.00	\$ 5325.00

Unsecured:

Number of unsecured creditors: 2	
Total amount of unsecured debts:	\$ 180.00
Real estate and personal property taxes:	<u>700.00</u>
<u>Total indebtedness:</u>	\$ 6205.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 4300.00
Value of livestock owned:	617.50
Value of other personal property:	<u>775.00</u>
<u>Total value of all assets:</u>	\$ 5692.50
Excess of debts over assets:	\$ 512.50

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made this proposal to his creditors: "To all of my creditors I offer my Federal Land Bank and Land Commissioner's Commitment which is in the sum of \$4100, which is made in full satisfaction of all of my claims."

This proposal was rejected by the creditors and the debtor did not file an amended petition. The case was dismissed upon recommendation of the conciliation commissioner, on April 12, 1935.

CASE NO. 12

County: Moody
 Petition filed: 10/12/35

Total acres in farm: 120
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

The debtor in this case was a tenant and owned no real estate. The farm included a small amount of machinery, two horses, 30 cattle, and 31 hogs.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Rent mortgage	\$ 625.00	\$ 290.00
Chattel mortgage	1065.00	550.00
	<u>\$ 1690.00</u>	<u>\$ 840.00</u>

Unsecured:

Number of unsecured creditors:	9	
Total amount of unsecured debts:		\$ 3589.00
Real estate and personal property taxes:		<u>64.26</u>
<u>Total indebtedness:</u>		\$ 4493.26

Assets (as estimated by the debtor)

Value of real estate owned:	\$ none
Value of livestock owned:	925.00
Value of other personal property:	<u>165.00</u>
<u>Total value of all assets:</u>	<u>\$ 1090.00</u>
Excess of debts over assets:	3403.26

C. PROCEDURE AND OUTCOME OF CASE:

Debtor's proposal to his creditors: "The petitioner offers to settle the claim of the (loan company holding chattel mortgage) for \$300 cash. This claim is in judgment and the acceptance of the offer to compromise is to satisfy this judgment. The other judgment debts of the debtor are hereby offered to be compromised at 10 per cent of their face amounts."

The creditors rejected this proposal and the debtor did not file an amended petition. This case was dismissed on September 7, 1937.

CASE NO. 13

County: Yankton
 Petition filed: 12/23/35

Total acres in farm: 520
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farmer was apparently engaged in raising purebred cattle but had been forced to dispose all livestock and machinery. The farm was operated jointly by the debtor and his brothers.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ none	\$ 1500.00
Real estate mortgage	7690.00	7690.00
Real estate mortgage	11690.00	11690.00
Two notes	none	519.00
	<u>\$19380.00</u>	<u>\$21399.00</u>

Unsecured:

Number of unsecured creditors:	9	
Total amount of unsecured debts:		\$74340.25
Real estate and personal property taxes:		<u>none</u>
<u>Total indebtedness:</u>		\$95739.25

Assets (as estimated by the debtor)

Value of real estate owned:	\$19380.25
Value of livestock owned:	none
Value of other personal property:	<u>1010.00</u>
<u>Total value of all assets:</u>	\$20390.25
Excess of debts over assets:	\$75349.00

C. PROCEDURE AND OUTCOME OF CASE:

This was a very complicated case. The debtor apparently was an officer of a commercial bank which had become insolvent. As a result of this, a rather large judgment was issued against the debtor. In order to pay this judgment, the debtor sold most of his personal property.

No voluntary agreement could be reached between the debtor and his creditors. This case was transferred into regular bankruptcy and the bankrupt was granted a discharge on November 23, 1936.

CASE NO. 14

County: Moody
 Petition filed: 9/28/36

Total acres in farm: 320
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a large farm located in a relatively favorable farming area. The farmer owned five horses, 40 cattle and 53 hogs. Amount of machinery appeared to be rather small for a farm of this size.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

<u>Secured:</u> <u>Description of property</u>	<u>Value of</u> <u>security</u>	<u>Amount</u> <u>of debt</u>
Real estate mortgage	\$24000.00	\$20000.00
Chattel mortgage	600.00	600.00
Chattel mortgage	600.00	600.00
	<u>\$25200.00</u>	<u>\$21200.00</u>

Unsecured:

Number of unsecured creditors: 4	
Total amount of unsecured debts:	\$ 1840.00
Real estate and personal property taxes:	<u>331.68</u>
<u>Total indebtedness:</u>	\$23371.68

Assets (as estimated by the debtor)

Value of real estate owned:	\$24000.00
Value of livestock owned:	1255.00
Value of other personal property:	<u>2000.00</u>
<u>Total value of all assets:</u>	\$27255.00
Excess of debts over assets:	

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made the following proposal to his creditors: "That the (insurance company holding real estate mortgage), upon the payment of \$750 by the debtor, compromise the indebtedness of the debtor upon the real estate owned by the debtor, so that the same will be paid by the proceeds of a loan now approved by the Federal Land Bank of Omaha. That he pay to the (commercial bank), the sum of \$600 in full settlement of his judgment. That he pay (person holding chattel mortgage) the sum of \$50 upon the indebtedness owed to him and that the balance be extended for a period of one year. This offer was rejected and the case was dismissed on February 11, 1937. Assets exceeded liabilities in this case.

CASE NO. 15

County: Yankton
 Petition filed: 4/22/37

Total acres in farm: 80
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a small diversified type farm. The debtors inventory included a small amount of machinery, seven cows, two hogs and 40 chickens.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of <u>security</u>	Amount <u>of debt</u>
<u>Description of property</u>		
Real estate mortgage	\$ 5000.00	\$ 6385.98
Feed loans	none	883.00
Mortgage on livestock	<u>250.00</u>	<u>250.00</u>
	\$ 5250.00	\$ 7518.98

Unsecured:

Number of unsecured creditors:	3
Total amount of unsecured debts:	\$ 244.00
Real estate and personal property taxes:	<u>91.34</u>
<u>Total indebtedness:</u>	\$ 7854.32

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 5000.00
Value of livestock owned:	278.00
Value of other personal property:	<u>523.00</u>
<u>Total value of all assets:</u>	\$ 5801.00
Excess of debts over assets:	\$ 2053.32

C. PROCEDURE AND OUTCOME OF CASE:

The real estate mortgage was made in 1925. The creditor foreclosed on the mortgage and the property was sold on April 21, 1936 for the sum of \$6135.98. On September 27, 1937, the extension of the time of redemption was terminated. For this reason the court ruled that it had no jurisdiction in the real estate and that this property should be stricken from the schedules.

The proposal of the debtor for conciliation was rejected by his creditors. An amended petition was filed and rental was set. The debtor apparently did not continue under the proceedings and the case was dismissed on October 30, 1937.

CASE NO. 16

County: Moody
 Petition filed: 6/21/37

Total acres in farm: 80
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

This was a small, diversified farm. The debtor apparently had a sufficient amount of equipment for the size of farm. Livestock included two horses, 20 cattle, and four hogs.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ 6500.00	\$ 4500.00
Chattel mortgage	125.00	117.50
Chattel mortgage	720.00	720.00
	<u>\$ 7345.00</u>	<u>\$ 5337.00</u>

Unsecured:

Number of unsecured creditors:	2	
Total amount of unsecured debts:		\$ 150.00
Real estate and personal property taxes:		<u>50.00</u>
<u>Total indebtedness:</u>		\$ 5537.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 6500.00
Value of livestock owned:	675.00
Value of other personal property:	<u>925.00</u>
<u>Total value of all assets:</u>	\$ 8100.00
Excess of debts over assets:	

C. PROCEDURE AND OUTCOME OF CASE:

It should be noted in this case that the debtor's assets were apparently greater than his liabilities. The debtor's proposal to his creditors was rejected. A mortgage on all real estate was contracted in 1929 and no payments were made after 1933. Since the property was foreclosed and sold, the debtor had no equity in the real estate at the date of petition. Apparently this farmer did not petition until after his right of redemption had expired.

The debtor did not amend his petition and the case was dismissed on October 22, 1937.

CASE NO. 17

County: Brown
 Petition filed: 2/28/38

Total acres in farm: 480
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

<u>Secured:</u> <u>Description of property</u>	<u>Value of</u> <u>security</u>	<u>Amount</u> <u>of debt</u>
Mortgage on real estate	\$ 2525.00	\$ 9000.00
Second real estate mortgage	none	3800.00
Mortgage on livestock	980.00	250.00
	<u>\$ 3505.00</u>	<u>\$13050.00</u>

Unsecured:

Number of unsecured creditors: 8	
Total amount of unsecured debts:	\$ 2525.00
Real estate and personal property taxes:	<u>none</u>
<u>Total indebtedness:</u>	\$ 15575.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 2800.00
Value of livestock owned:	980.00
Value of other personal property:	<u>666.00</u>
<u>Total value of all assets:</u>	\$ <u>4446.00</u>
Excess of debts over assets:	\$ 11129.00

C. PROCEDURE AND OUTCOME OF CASE:

The debtor was the wife of a deceased farmer. She made the following proposal to her creditors: "Debtor proposes to his secured creditors; that he continue to possess, farm and care for his property to the best of his ability and resources and according to good farming practices, and out of the proceeds of each year's operations, take out and pay; first, the prudent and necessary cost of production of crops and of operation and maintenance of farm; second, take out of such income such reasonable standard of living for the debtor and his dependents, and that such amount may be determined by the conciliation commissioner or by arbitration, at the option of the creditors; third, an amount sufficient to pay, and to pay at least one year's taxes; fourth, pay over and account to the conciliation commissioner all the balance of his yearly income on or before December 1 each year, which such balance debtor estimates will, during the next three years, average at least \$1250 per year, such income to be paid over to the creditors as payment of their claims, to the extent of the value of their security or the amount of their allowed claims, whichever is lesser in amount, and in accordance with such priorities, equities, and proportions as may be agreed upon by the creditors or determined by the conciliation commissioner or the court to be just; (unpaid balance to bear interest at the rate of

CASE NO. 17
(continued)

C. PROCEDURE AND OUTCOME OF CASE: (continued)

4 per cent per annum); it being the intention and proposal of the debtor to apply as such payment all income over and above the costs of operation, living expenses of the debtor and his dependents; and taxes, and pay each creditor as soon as possible, and that in case the application of such income does not pay within three years the amount of the debt, or the values of the securities, that debtor will before the expiration of three years from the acceptance of this proposal, refinance such remaining amount by securing a loan, or disposing of property, or both, sufficient to complete such payments."

This proposal was rejected by the creditors and the debtor filed an amended petition under subsection (s). An appraisal was made on August 2, 1938. Appraised value of real estate was \$3485 and value of personal property was \$1346.

The secured creditors each made a motion to dismiss the proceedings and the court filed a written decision thereon, consisting of findings of fact and conclusions of law. As conclusions of law, the court found that the case should be dismissed because the proposal of the debtor did not offer any reasonable prospect of rehabilitation and that it was not in good faith within the meaning of the Bankruptcy Act. (The text of this decision and a discussion of the case may be found in Chapter V.)

The debtor made an appeal, along with 23 other debtors who had also filed petitions in Brown County on February 28, 1938, and whose cases were dismissed on the same grounds. In another written statement the judge again ruled that the proposals of the 24 debtors were not in good faith.

This case was dismissed on March 28, 1939.

CASE NO. 18

County: Brown
 Petition filed: 2/28/38

Total acres in farm: 160
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farmer had a complete line of farm machinery but owned no real estate. The inventory of the farm included eight horses, 14 cows, one tractor and one threshing machine.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of	Amount
<u>Description of property</u>	<u>security</u>	<u>of debt</u>
Land lease	\$ none	\$ 375.00
Chattel mortgage	696.00	819.00
Second chattel mortgage	none	920.00
Mortgage on farm machinery	150.00	564.00
Mortgage on hogs	454.00	450.00
Second mortgage on hogs	none	55.00
	<u>\$ 1300.00</u>	<u>\$ 3183.00</u>

Unsecured:

Number of unsecured creditors:	11	
Total amount of unsecured debts:		\$ 2007.00
Real estate and personal property taxes:		<u>51.00</u>
<u>Total indebtedness:</u>		\$ 5241.00

Assets (as estimated by the debtor)

Value of real estate owned:	\$ none
Value of livestock owned:	480.00
Value of other personal property:	<u>882.00</u>
<u>Total value of all assets:</u>	\$ 1362.00
Excess of debts over assets:	\$ 3879.00

C. PROCEDURE AND OUTCOME OF CASE:

The debtor's proposal to his creditors was essentially the same as the preceding case (Number 17) since the proposals of all debtors filing petitions on February 28, 1938 in Brown County were on a mimeographed form with only amounts of money and percentages filled in.

This proposal was rejected and the debtor filed an amended petition. Personal property of the farmer was appraised at \$815 and a yearly rental of \$15 was set by the court.

Most of the debtor's property was abandoned as burdensome. Discharge was granted on December 26, 1941.

CASE NO. 19

County: Brown
 Petition filed: 3/4/38

Total acres in farm: 90
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This was a small, diversified farm. The debtor was a tenant but owned a considerable amount of farm machinery and livestock, including three horses, 68 cattle, 10 sheep, 10 hogs and two tractors.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of	Amount
<u>Description of property</u>	<u>security</u>	<u>of debt</u>
Mortgage on farm machinery	\$ 60.00	\$ 60.00
Mortgage on all other machinery	800.00	1414.80
Second mortgage (above)	none	320.00
	<u>\$ 860.00</u>	<u>\$ 1794.80</u>

Unsecured:

Number of unsecured creditors:	12	
Total amount of unsecured debts:		\$ 4360.00
Real estate and personal property taxes:		<u>80.00</u>
<u>Total indebtedness:</u>		\$ 6234.80

Assets (as estimated by the debtor)

Value of real estate owned:	\$ none
Value of livestock owned:	1785.00
Value of other personal property:	<u>196.00</u>
<u>Total value of all assets:</u>	\$ 1981.00
Excess of debts over assets:	\$ 4253.80

C. PROCEDURE AND OUTCOME OF CASE:

The debtor's proposal to his creditors was rejected and an amended petition was filed. An appraisal was made on August 13, 1938 and the farmer's personal property was valued at \$2113.80. A yearly rental of \$105 was set by the court.

The farmer was granted a discharge on January 3, 1939.

CASE NO. 20

County: Brown
Petition filed: 5/1/40

Total acres in farm: 320
Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farm included 160 acres owned by the debtor and a quarter section which was rented. About half of the land was under cultivation. Livestock consisted of two horses and 19 cows.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

<u>Secured:</u> <u>Description of property</u>	<u>Value of</u> <u>security</u>	<u>Amount</u> <u>of debt</u>
Real estate mortgage	\$ 3500.00	\$ 9414.63
And 1935, 1936, 1937		
Crop mortgages		
	<u>3500.00</u>	<u>9414.63</u>
 <u>Unsecured:</u>		
Number of unsecured creditors: 1		
Total amount of unsecured debts:		\$ 470.00
Real estate and personal property taxes:		<u>40.29</u>
Total indebtedness:		\$ 9924.92

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 3500.00
Value of livestock owned:	410.00
Value of other personal property:	<u>649.00</u>
Total value of all assets:	\$ 4559.00
Excess of debts over assets:	<u>5365.92</u>

C. PROCEDURE AND OUTCOME OF CASE:

The debtor had filed a petition under section 75 two years previous to filing the present petition. This first petition was dismissed.

The proposal of the debtor was rejected and he filed an amended petition under subsection (s). Real estate was valued at \$4000 and personal property at \$1016.

The following rental was set by the court: one-third of all grain, full amount of all government payments and \$40 rental on pasture and buildings. The debtor paid \$183.55 rental in 1941 and \$276.95 rental in 1942. On May 25, 1943, the farmer offered to pay the appraised value of the real estate into the court and to receive a deed to the property. The creditor holding the real estate mortgage objected on the grounds that the property had substantially depreciated in value since the appraisal. A hearing was held before the Circuit Judge and the real estate was reappraised at \$7000. The debtor was given ninety days within which to pay this amount into the court.

There is no record of whether the farmer actually redeemed his property but a discharge was granted on February 3, 1944.

CASE NO. 21

County: Brown
Petition filed: 5/15/40

Total acres in farm: 480
Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

Although this was a rather large farm, no livestock or machinery appeared on the farmer's schedules. It would seem that the debtor was rather poorly equipped for carrying on general farming operations.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of <u>security</u>	Amount <u>of debt</u>
<u>Description of property</u>		
Real estate and 1938 crop mortgage	\$ 6000.00	\$ 8400.00
Second real estate mortgage	none	5000.00
Second real estate mortgage	none	2395.00
Chattel mortgage	none	55.00
	<u>\$ 6000.00</u>	<u>\$15850.00</u>
Unsecured:		
Number of unsecured creditors:	14	
Total amount of unsecured debts:		\$ 5458.00
Real estate and personal property taxes:		<u>158.61</u>
<u>Total indebtedness:</u>		\$21466.61

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 6000.00
Value of livestock owned:	none
Value of other personal property:	<u>136.00</u>
<u>Total value of all assets:</u>	\$ 6136.00
Excess of debts over assets:	\$15330.61

C. PROCEDURE AND OUTCOME OF CASE:

The debtor made the following proposal to his creditors: "I offer to pay the (government credit agency holding real estate mortgage) \$6000 and the balance within three years and to pay an annual rental of \$60. To the (holder of second mortgage on real estate) I offer to pay \$50 and one-half of the crop in 1940 and 1941. To my unsecured creditors I will pay 5 per cent of the face of their claims."

This proposal was rejected and the debtor filed an amended petition. An appraisal was made on October 4, 1940. Real estate was appraised at \$5000 and personal property at \$165.

The annual rental was set at one-third share of grain, one-fourth of all government payments and a cash rental of \$60 for pasture and buildings. The bankrupt paid a rental of \$274 in 1941 and a rental of \$149.32 in 1942.

CASE NO. 21
(continued)

C. PROCEDURE AND OUTCOME OF CASES: (continued)

The creditor holding a real estate mortgage asked the court for permission to foreclose on the debtor's property after the moratorium period had expired. This request was apparently denied and the debtor was discharged September 9, 1942.

CASE NO. 22

County: Brown
 Petition filed: 5/21/40

Total acres in farm: 320
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farm appeared to be rather typical of the farming area within which it was located. Livestock on the farm consisted of four horses, 13 cows, eight sheep, 75 chickens and 19 turkeys. The debtor apparently owned a full line of farm machinery.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate mortgage	\$ 1775.00	\$ 8712.82
Mortgage on tractor	300.00	176.70
Mortgage on plow	60.00	42.70
	<u>\$ 2135.00</u>	<u>\$ 8931.22</u>

Unsecured:

Number of unsecured creditors: 1	
Total amount of unsecured debts:	\$ 19.96
Real estate and personal property taxes:	<u>11.50</u>
<u>Total indebtedness:</u>	\$ 8962.68

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 1600.00
Value of livestock owned:	573.00
Value of other personal property:	<u>645.00</u>
<u>Total value of all assets:</u>	\$ 2818.00
Excess of debts over assets:	\$ 6144.68

C. PROCEDURE AND OUTCOME OF CASE:

The debtor's proposal to his creditors was as follows: "To Brown County for taxes he will pay the full amount as soon as he is able to get the money. To the (holder of real estate mortgage) he will pay \$7000 and make payment as follows: He will give one-fourth of of the crop and pay \$50 cash rent and pay the taxes for 1940 and 1941. During 1942 he will pay the balance for the land."

The creditors rejected this proposal and the debtor filed an amended petition.

This farmer had previously filed a petition under section 75 on February 28, 1938 but the case was dismissed. The debtor stated that since his first petition had been dismissed, the Supreme Court made a ruling that the District Court should not determine that a debtor cannot rehabilitate himself (lack of good faith).

CASE NO. 22
(continued)

C. PROCEDURE AND OUTCOME OF CASE: (continued)

An appraisal was made on January 6, 1941. The appraised value of the real estate was \$2100; personal property was valued at \$772.

The real estate rental was set at one-fourth of all grain, cash rent of \$25 for pasture and buildings and one-fourth of all government payments. The debtor paid a rental of \$266.50 in 1941 and \$179.54 in 1942. This case was discharged on November 18, 1942.

CASE NO. 23

County: Brown
 Petition filed: 5/21/40

Total acres in farm: 240
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farm was apparently operating without sufficient machinery and stock. Only a small portion of the land was under cultivation. The farmers inventory included two horses, nine head of cattle and 50 chickens.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Real estate and crop mortgage	\$6000.00	\$12000.00
Mortgage on livestock	280.00	300.00
Second chattel mortgage	none	110.00
Second mortgage on livestock	none	200.00
	<u>\$ 6280.00</u>	<u>\$12610.00</u>

Unsecured:

Number of unsecured creditors:	7	
Total amount of unsecured debts:		\$ 2095.00
Real estate and personal property taxes:		<u>24.36</u>
Total indebtedness:		\$14729.36

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 6000.00
Value of livestock owned:	10.00
Value of other personal property:	<u>332.50</u>
Total value of all assets:	\$ 6342.50
Excess of debts over assets:	\$ 8386.86

C. PROCEDURE AND OUTCOME OF CASE:

Debtor's proposal to creditors: "To the (holder of real estate mortgage) he offers \$5000 in full settlement of their claim with their usual rate of interest upon deferred payments to be paid as follows: One-third of the crop and one-third of the soil money for the years 1940 and 1941. Both of these payments will be made before December 1 of their respective years. The balance of the amount to be paid on or before three years from date of filing the petition herein, in cash or sufficient cash to satisfy the creditors for the balance.

To the other secured creditors, whose securities are eliminated by reason of condition, 5 per cent of the amount they claim, to be paid one-half in the fall of 1940 and one-half in the fall of 1941. To the unsecured creditors he offers 5 per cent of the face of their claims without interest; to be paid one-half in the fall of 1940 and one-half in the fall of 1941."

CASE NO. 23
(continued)

C. PROCEDURE AND OUTCOME OF CASE:

This proposal was rejected and the debtor filed an amended petition. An appraisal was made on November 30, 1940; value of the real estate was \$4800 and personal property was valued at \$785.

Rental on the property was set at one-third of the grain, cash rent of \$50 for pasture and buildings and one-fourth of all government payments. This rental was paid in 1941 and 1942.

The debtor was granted a discharge on November 18, 1942.

On November 2, 1945 the debtor petitioned to close the case. He stated that he had paid all of his secured creditors or settled with them by selling his real estate.

CASE NO. 24

County: Brown
 Petition filed: 7/28/41

Total acres in farm: 120
 Outcome of case: Discharged

A. GENERAL DESCRIPTION OF FARM:

This farmer was a tenant and was apparently engaged in the raising and feeding of livestock. He owned four horses, 28 cattle, 80 sheep and 12 hogs but had very little farm machinery.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of security	Amount of debt
<u>Description of property</u>		
Livestock mortgage	\$ 1210.00	\$ 750.00
Soil payment	170.00	170.00
Note and chattel mortgage	500.00	489.32
Mortgage on crop	155.00	155.00
	<u>\$ 2035.00</u>	<u>\$ 1564.32</u>

Unsecured:

Number of unsecured creditors:	6	
Total amount of unsecured debts:		\$ 1120.00
Real estate and personal property taxes:		<u>12.17</u>
<u>Total indebtedness:</u>		\$ 2696.49

Assets (as estimated by the debtor)

Value of real estate owned:	\$ none
Value of livestock owned:	1070.00
Value of other personal property:	<u>105.00</u>
<u>Total value of all assets:</u>	\$ 1175.00
Excess of debts over assets:	\$ 1521.49

C. PROCEDURE AND OUTCOME OF CASE:

The debtor offered this proposal to his creditors: "To all his creditors secured by chattel mortgages, he will pay in full payment to be divided into three parts, approximately one-third in the fall of 1941, the balance divided into two equal parts and one part to be paid in the fall of 1942 and the other part in the fall of 1943. To his unsecured creditors he offered to pay 5 per cent, 2 per cent in the fall of 1941, 2 per cent in the fall of 1942, and 1 per cent in the fall of 1943.

The creditors did not accept this proposal and the debtor filed an amended petition.

The debtor applied for a discharge and since no objections were made, the discharge was granted on June 13, 1942.

CASE NO. 25

County: Yankton
 Petition filed: 6/29/42

Total acres in farm: 160
 Outcome of case: Dismissed

A. GENERAL DESCRIPTION OF FARM:

Farming operations of this debtor were apparently confined to raising corn and small grain. The farmer had no livestock but owned a complete line of farm machinery.

B. ASSETS AND LIABILITIES AS LISTED IN PETITION:

Debts

Secured:	Value of	Amount
<u>Description of property</u>	<u>security</u>	<u>of debt</u>
Real estate mortgage	\$ 4500.00	\$11926.17
Mortgage on tractor	250.00	200.00
	<u>\$ 4750.00</u>	<u>\$12126.17</u>

Unsecured:

Number of unsecured creditors: 14

Total amount of unsecured debts: \$ 4082.25

Real estate and personal property taxes: none

Total indebtedness: \$16208.42

Assets (as estimated by the debtor)

Value of real estate owned:	\$ 4500.00
Value of livestock owned:	none
Value of other personal property:	<u>735.50</u>
Total value of all assets:	\$ 5235.50
Excess of debts over assets:	\$10972.92

C. PROCEDURE AND OUTCOME OF CASE:

The debtor and his creditors did not reach a voluntary agreement and an amended petition was filed. A three year stay of proceedings was allowed and an appraisal of the debtor's property was made on October 12, 1942. Real estate was appraised at \$4000 and personal property at \$1240.

An annual rental was set by the court. The debtor paid a total of \$2668.58 rental for the years 1943, 1944 and 1945.

The exact outcome of this case is uncertain. It is probable that the debtor made an out of court settlement with his creditors. There is no record of a dismissal but since the debtor did not receive a discharge, this case was treated as if it were dismissed.

APPENDIX B

SAMPLE OF SCHEDULES USED

SCHEDULE I

NORTH DAKOTA FARMER BANKRUPTCY SURVEY, 5-1-54

Name _____ Residence _____ County _____

Case No. _____ Type of procedure: Regular _____ or Sec. 75 _____

Date petition filed _____

Date Order of Dismissal filed _____

Date Order of Discharge filed _____

Length of case _____ months

Attorney _____ Referee _____ Trustee _____ Conciliation Commissioner _____

SCHEDULE II

NORTH DAKOTA FARMER BANKRUPTCY SURVEY, 5-1-54

Name _____ 1. Indebtedness having priority of law:
(from Schedule A-1 of Petition)

Case No. _____ Taxes due U. S. \$ _____

County _____ Real estate and personal
property taxes _____

Discharged _____ or dismissed _____ Wages due others _____

Date of petition _____ Other debts having priority _____

Total acres in farm _____ Total priority indebtedness _____

2. Secured debts (from Schedule A-2 of Petition):

<u>Name of creditor</u>	<u>Description of property</u>	<u>Value of security</u>	<u>Amount of debt</u>
_____	_____	\$ _____	\$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Total secured debts \$ _____ \$ _____
Total

3. Unsecured debts (from Schedule A-3): No. of creditors _____ Am't. \$ _____

4. Total indebtedness. \$ _____

5. Assets (from Schedules B-1, B-2, B-3, B-4, and B-5 of Petition):

No. of acres owned _____ Estimated value of
real estate owned \$ _____

Horses _____ Tractors _____ Value of livestock owned \$ _____

Cows _____ Autos _____ Value of other per. prop. \$ _____

Sheep _____ Trucks _____ Total per. prop. \$ _____

Hogs _____ Combines _____ Total value of all assets \$ _____

Chickens _____ Threshers _____ Value of prop. exempt by law \$ _____

SCHEDULE II
(continued)

6. From Appraisers Report:

Date of report _____ Value of real estate \$ _____

Value of per. prop. \$ _____

7. Outcome of case (in general terms. If case dismissed, reason for dismissal. If bankrupt discharged, general statement of composition.)

SCHEDULE III

SECTION 75 CONCILIATION CASES IN NORTH DAKOTA

	<u>No. of cases</u>
1. <u>Bankrupt discharged</u>	792
2. <u>Case dismissed (including dismissal without prejudice) and not reopened</u>	1,633
3. <u>Case dismissed without prejudice and reopened under the same docket number:</u>	
a. Bankrupt discharged	0
b. Case dismissed	57
4. <u>Case transferred to regular bankruptcy docket and given a bankruptcy docket number:</u>	
a. Bankrupt discharged	25
b. Case dismissed and not reopened	60
c. Case dismissed; petitioner instituted a new section 75 case:	
(1) Bankrupt discharged	1
(2) Case dismissed	3
5. <u>Case dismissed; petitioner instituted a new case under section 75:</u>	
a. Bankrupt discharged	30
b. Case dismissed	46
6. <u>Case dismissed; petitioner subsequently filed under the regular bankruptcy laws:</u>	
a. Bankrupt discharged	4
b. Case dismissed	0
Total number of cases	<u>2,651</u>
<u>Recapitulation:</u>	
1. Total cases going to discharge	852
2. Total cases dismissed	<u>1,799</u>
Total number of cases	<u>2,651</u>

GLOSSARY OF TERMS

Abandonment of Burdensome Property: The trustee may abandon any property which is either worthless or overburdened or for any other reason certain not to yield any benefit to the general estate.

Bankrupt: This term refers to a person who has been adjudged a bankrupt by the court but does not include the persons dealt with in any of the various rehabilitation provisions of the act.

Conciliation Cases: All petitions filed under section 75 (subsections a-r) are referred to as conciliation cases.

Conciliation Commissioner: Official appointed by the court to assist in conciliation proceedings; has full legal authority except that his decisions may be appealed to the judge of the Circuit Court.

Court: This includes both the judge and referee in bankruptcy.

Courts of Bankruptcy: It should be noted that this term does not have the same meaning as the word "court" alone. It refers to the District Courts of the United States.

Debtor: The petitioner under section 75 subsections (a-r) is referred to as the "debtor"; if the debtor proceeds under subsection (s), he is adjudged a bankrupt.

Discharged Cases: The petitioners in these cases have been relieved of responsibility for their provable debt as of the date of petition.

Dismissed Cases: No discharge was granted in these cases; the petitioner was held responsible for all debts.

Frazier-Lemke Act: Subsection (s) of section 75 is commonly referred to as the Frazier-Lemke Act.

Insolvency: Excess of liabilities over assets as a fair valuation is the test of insolvency in bankruptcy proceedings. This is entirely different from the so-called "equity" test, namely inability to pay debts as they mature, which is used in section 75 cases.

Involuntary Bankruptcy: This type of procedure occurs when a debtor is placed in bankruptcy by his creditors and against his will. Farmers are expressly prohibited from becoming involuntary bankrupts.

Judge: This term, unlike the word "court", does not include the referee.

Referee: Judicial officer of the bankruptcy court whose decisions have the full force of the court except that his jurisdiction may be reviewed by the judge.

Secured Creditor: A creditor is secured if there is a lien held by him or accruing for his benefit on the property of the debtor.

Trustee: The trustee in a bankruptcy case is elected by the creditors; his chief duty is to conserve and advance the interests of the estate entrusted to him.

Unsecured Creditor: A creditor is unsecured if there is no lien held by him or accruing for his benefit on the property of the debtor.

Voluntary Bankruptcy: This type of procedure occurs when a debtor files a petition in the United States District Court and requests to be adjudged a bankrupt. All former bankruptcies are voluntary.

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